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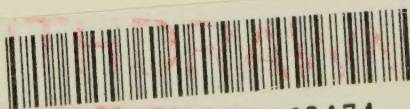
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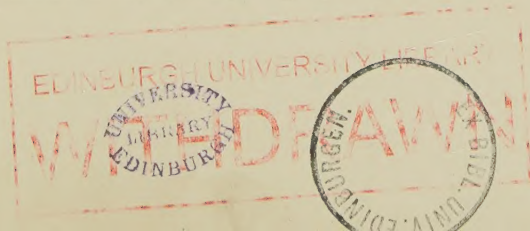
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Select Cases
before the King's Council in the Star Chamber

COMMONLY CALLED

The Court of Star Chamber

A.D. 1477-1509

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SELECT CASES BEFORE THE KING'S COUNCIL IN THE STAR CHAMBER

COMMONLY CALLED

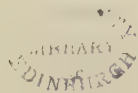
THE COURT OF STAR CHAMBER

A.D. 1477-1509

EDITED
FOR THE SELDEN SOCIETY
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INTRODUCTION

PART I

1. The Statute 'Pro Camera Stellata.'
2. The Condition of the Records.
3. Process of the Court of Star Chamber.
 - a. Bill, Address, and Prayer.
 - b. Indorsement of Bill.
 - c. Writs of Summons &c.
 - d. Appearance, Answer, Demurrer.
 - e. Replication and Rejoinder.
 - f. Examination of Witnesses.
 - g. Judgement.
4. Composition of the Court of Star Chamber.
5. Jurisdiction of the Court of Star Chamber.

1. Much of the ensuing discussion turns upon the wording of the Act of 3 Hen. 7, c. 1 (1487), intituled in the copy from the Rolls of Parliament printed in the Statutes of the Realm 'Pro Camera Stellata.' As the Statutes of the Realm are not always accessible, and are printed in somewhat unwieldy volumes, it has been thought desirable to reprint this statute here as a text upon which the introduction is founded. The statute runs as follows :—

Pro Camera Stellata.

'An Acte geving the Court of Starchamber Authority to punnysshe dyvers Mydemeanors.¹

'The Kyng oure Sovereyn Lord remembreth howe by onlawfull mayntenaunces gevyng of lyveres signes and tokyns and reteyndres by endentur promyses othes writyng or otherwise, embraciaries of his subgettes, ontrue demeanynges of Shrevys in makyng of panelles and other ontrewe retournes, by takyng of money by jurryes, by greate

¹ Sic.

riotts and unlawfull assemblez, the polacye and good rule of this realme is almost subdued, and for the nowne punyshement of this inconvenience and by occasion of the premyssis nothyng or lityll may be founde by enquerry, wherby the Lawes of the lond in execucion may take litell effecte to the encreas of murdres robberies perjuries and unsuerties of all men lyvyng and losses of their londes and goodes, to the greate displeasure of Allmyghty God Be yt therfor ordnyed for reformacion of the premysses by thauctorite of this parliament, That the Chaunceller and Tresorer of Englund for the tyme beyng and Keper of the Kyngs pryvye Seall or too of theym calling to hym a Bisshopp and a temporall Lord of the Kynges most Honorable Councell and the too chyeff Justices of the Kynges Benche and Comyn Place for the tyme beyng, or other too Justices in ther absence, uppon bill or informacion put to the seid Chaunceller, for the Kyng or any other, ageyn eny persone for eny mysbehavyng afore rehersed, have auctorite to call before theym by Wrytte or Pryvye seall the seid mysdoers and theym and other by ther discressions to whome the trouthe may be knowen to examyn, and such as they fynd therein defectiff to punyssh theym after their demerites after the forme and effecte of Statutes therof made in like maner and forme as they shuld and ought to be punysshed if they were therof convycte after the due ordre of the lawe. And over that be yt also ordygned by thauctorite aforeseid that the Justices of the Peas of every Shire of this Realme for the tyme beyng may do take by ther discressions an enquest, whereof every man shall have lands and tenementes to the yerly value of xl. s. at the leest, to enquire of the concelementes of other enquests taken afore theym and afore other, of such maters and offences as ar to be enquired and presented afore Justices of the Peas wheroff complaynt shall be made by bill or billes aswell within fraunches as without; and yff eny such concelement be found of any enquest as is afore rehersed had or made within the yere afore the same concelement, every persone of the same enquest to be amerced for the same concelementes by discression of the same Justicez of the Peas; the seid amerciements to be cessed in playn Sessions.'

2. Among the objections to the claim of the Star Chamber to be recognised as 'a settled ordinary court of justice' was one pointing to the carelessness with which it kept its records. The inference drawn by its detractors in the age of James 1 and Charles 1 was, according to its historian, apologist, and official representative, William Hudson, that it was 'only an assembly for a consultation, at

the King's command, upon some urgent occasions,' whose precedents were therefore of no binding import, either upon itself or upon any ordinary Court. To this argument Hudson replies that 'this negligence hath crept into the Court of very late time, either in Mr. Mills's age, or since the office hath been executed by many deputies, one being thrust out by that time he understandeth the duties of the place, and another put in altogether unexperienced; yet in former times the judgments before the King and his Council were kept in such care and remain in such order, as no records of the kingdom are of more use than those remaining in the Tower of London.'¹

It is not necessary at this point to discuss the assumption, which Hudson maintains throughout his treatise, that the King's Council and the Court of the Star Chamber are two names for the same tribunal enjoying a continuous vitality from the earliest period of English history. It is unfortunately the case, if Hudson's eulogy was once justified, that the carelessness of later ages introduced confusion where order formerly reigned. Of this fact the present volume is witness. Although of recent years some effort has been expended upon the reintroduction of order into chaos, some of the cases here printed belong to other reigns, some are pieced together, isolated papers belonging to suits of the period of Henry 7 being found sorted and indexed as parts of suits belonging to that of Henry 8. Examples of this occur in *Hewyt and others v. the Mayor and Corporation of London* (p. 89); *Kebell v. Vernon* (p. 130), where the whole case is wrongly sorted; the *Abbot v. the Bailiffs of Shrewsbury* (p. 182); and the same case (p. 202), where a petition of the reign of Henry 8 is sorted among the papers of Henry 7; *Colthurst v. the Gentlemen of Furnivall's Inn and others* (p. 245); *Furbur v. the Principal of Furnivall's Inn and others* (p. 247); *Colthurst and Furbur v. the Principal &c. of Furnivall's Inn* (p. 248); *Butlond and others v. Austen and others* (p. 262); and *Straunge v. Kenaston* (p. 274). It is by no means improbable that portions of cases which are here incomplete may hereafter be found among the numerous bundles of documents which have of late years been sorted together as belonging to the reign of Henry 8. But confusion is by no means the most deplorable incident in the history of these records. A Committee of the House of Lords in 1719 reported the disappearance of the whole of the Star Chamber decrees.² We are reduced,

¹ 'Treatise of the Court of Star Chamber,' p. 6, printed in 'Collectanea Juridica' (1792), vol. ii. pp. 1-240.

² S. R. Scargill-Bird, 'Guide to Principal Classes of Documents at Record Office' (1896), p. 198.

therefore, to an occasional glimpse into the subsequent history of some matter of dispute upon which to found an inference as to the issue of a suit.

There are a hundred and twenty cases calendared as belonging to the reign of Henry 7, and I have noted among the bundles sorted as of the reign of Henry 8 about seventeen more. On the other hand, the first two cases here printed, of which the first is calendared as of the reign of Henry 8 and the second as of the reign of Henry 7, belong demonstrably to that of Edward 4, and must therefore have been heard before the Council. The third, *Parker v. the Duke of Suffolk* (p. 15), while it cannot be of later date than 1489, may be as early as 1485, and may therefore belong to the reign of Richard 3, and be likewise a case before the Council. The fifth, the suit of the Prior of Bath against the Abbot of St. Augustine's, Canterbury (p. 20), shews signs of having been originally begun before the Council in the reign of Richard 3, one of its principal documents being dated as of the first year of that king. I have printed what remains of another suit, sorted among those of Henry 8, which belongs to the reign of Henry 7, viz. the *Lead Miners of Yorkshire v. the Merchants of York* (p. 69). These facts are not stated by way of attack upon the diligence or accuracy of officers of the Record Office. It will be seen, in the cases where the real dates of the documents are established, that this has been effected by a scrutiny of the internal evidence incumbent upon the editor of a selection, but not to be looked for from officials who, in the absence of identifying dates, are obliged to rely upon *prima facie* impressions if their work is to progress with reasonable rapidity.

The circumstance that cases obviously heard before the Council prior to the date of the statute 'Pro Camera Stellata,' in 1487, are here sorted furnishes no argument in the controversy as to the origin of the Court known to later times as the Court of the Star Chamber. It is indisputable that the clerk of the Council was the clerk of the Star Chamber, and that the proceedings of the Star Chamber ran in the name of the Council. In the course of the long disputes between the abbot and bailiffs of Shrewsbury, which were throughout carried on before the Star Chamber, *eo nomine*, we meet with the signatures of Robert Rydon (p. 193) and of John Mewtis (p. 208), both successively clerks of the Council.

The proportion to the whole of the number of suits in which ecclesiastics figure in these pages is very slightly in excess of the proportion to the whole number distributed among the entire range

of cases of the reign of Henry 7. Of the total number of 137 suits calendared in the list of cases heard in the Star Chamber in the reign of Henry 7 ecclesiastics figure in 36, that is, in 26·2 per cent. They are plaintiffs in 16, defendants in 17, and both plaintiffs and defendants in 3. Of the total number of 39 cases here published, including the magistrates' certificate on p. 234 and excluding the petitions of the municipalities of Gloucester and Worcester, ecclesiastics figure in 12, that is, in 30·7 per cent. In 7 of these they are plaintiffs, in 3 they are defendants, in 2 they are both plaintiffs and defendants. I have not read all the 36 cases above mentioned, the printed calendar giving sufficient indication of their contents. Many of them concern tithes, a subject in general of no more than local interest. The large proportion in the selected cases of bills in which ecclesiastics were the plaintiffs is enough to shew that there has been no unfair selection in their disfavour. The proportional excess, slight though it is, of suits in which ecclesiastics were parties is due to the sense that there is much need of light upon the state of the Church immediately prior to the Reformation. The justification of the dissolution of the monasteries has of late been so ably impugned that I selected suits which promised to illustrate these points in preference to those between ordinary laymen. One of these, at least, *Carter v. the Abbot of Malmesbury* (pp. 118–129), in addition to these matters of ecclesiastical interest, reveals interesting features of bondage and enfranchisement at the close of the fifteenth century. It is sufficient to say here that this case, that of *Culford v. Wotton* (pp. 45–49), involving the same monastery, and that of the Prior of Bath *v. the Abbot of St. Augustine's, Canterbury* (pp. 20–36), by no means present us with the idyllic picture of monastic sanctity so skilfully painted by the apologetic talent of Dr. Gasquet.

The documents have been arranged in order of date. Where the date is only assignable within limits, the principle followed, for want of a better, has been to print the case in the order in which it would have been placed had it indubitably belonged to the earliest date assignable. The widest margin is in the case of the attain of a jury by Sir James Hobart, A.G. (p. 18). This might have been in any year between Michaelmas Term, 1486, and 1507, during which long period Hobart held that office. The only other instance in which it has been necessary to allow a conjectural latitude of dates is that of *Parker v. the Duke of Suffolk* (p. 15), which must have been between 1485 and 1489. In the rest of the cases either the express evidence of an indorsement or the incidental mention of some date or fact has

enabled the identification of the year to which the suit belongs. In the suit of the Abbot *v.* the Bailiffs of Shrewsbury (pp. 178–208) there is a slight departure from the order. This case is really compounded of two suits, the first brought in 1504, the second in 1509. As the parties, the matters in dispute, and the evidence are substantially the same in both, so that they form in reality one protracted litigation, I have judged it better to arrange them accordingly.

Where several cases belong to the same year the order in which they are printed is the order of the law terms in which the earliest proceedings were taken.

It is currently said that the spelling of names runs by no rule at this period, and there is much to justify the assertion. On the other hand, those who are conversant with the Patent Rolls, especially in the case of pardons, and with pleadings in which the identification of an individual is a capital point, know that upon occasion medieval lawyers could be as exact as any modern, and to prevent mistake would introduce a variety of spellings with the prefix ‘alias.’ In the case of *Burde v. the Earl of Bath* before the Court of Requests in 1540¹ the defendant’s plea twice runs ‘Rychard Burd named indede Beard.’ I have therefore assumed, in assigning titles to the cases, that the parties to a suit respectively knew how to spell their own names, at least constructively through their counsel, and have neither adopted the spelling of the other side nor that of indorsing clerks.

a. Great variety exhibits itself in the form of address with which the plaintiff prefaces his bill. In the first two cases, which were undoubtedly filed for hearing of Edward 4 in Council, this variation already discloses itself. The Mayor of Exeter addresses (p. 1) ‘To the Kyng oure Soueraigne lord’: John Tayllour (p. 6) ‘To the kyng our Souereyne lorde and to the lordys of his most noble Councell.’ These and in this order are the most numerous forms of address prior to the year 1500. After that year the common form is to the Chancellor or Lord Keeper, his ecclesiastical titles being given precedence. In two cases (pp. 209, 253) we have addresses to the Archbishop of Canterbury, presumably as Chancellor, and the Lords of the Council. In three, beginning with *Parker v. the Duke of Suffolk* (p. 15, cp. p. 162), the Lords of the Council only are addressed, the words ‘in the Sterre Chamber’ being added in the petition of the Mayor and Corporation of Gloucester in the year 1505 (p. 209). While the body of the petition, ending with the prayer for the summons of the defendant,

¹ Select Cases in the Court of Requests, Selden Society, 1898, p. 52.

is frequently consistent with the address, it is not always so. In *Idele v. the Abbot of St. Bennettes Holme* (p. 50), addressed to the King and Council, the complaint is throughout to the King alone. On the other hand, we have cases like *Goryng v. the Earl of Northumberland* (p. 94) and *Pynson and others v. Squyer and others* (p. 114), where the address is respectively to the King and the Chancellor. In the first case the prayer is that the defendant may be called in examination of the King in Council; in the second that he may be summoned to appear before them.

A reference to the wording of the Statute 'Pro Camera Stellata' shews that the bill or information of the complaint is to be 'put to the seid Chaunceller.' No alternative form is contemplated. Upon this point Coke (4 Inst. c. 5, f. 62) remarks that 'where that Act (3 Hen. 7, c. 1) directeth that the bill of information should be put to the Lord Chancellor &c., all bills and informations in that Court (the Star Chamber) are continually directed to the King's Majesty, as they were before the said Act.' This has been seen to be literally true of the first case here published, that of the Mayor &c. of Exeter *v. Stoden and others* (p. 1), and constructively true of the second case, *Tayllour v. Att Well* (p. 6), 'the lordys of his most noble Councell' being added to the address to the Sovereign. Both of these cases were unquestionably prior to the Act of 1487. But the second of the Abbot of Shrewsbury's cases, heard in 1509, in which the Court of the Star Chamber is mentioned *eo nomine* as the tribunal by which it was tried (p. 189), is addressed, conformably to the Act, to the Archbishop of Canterbury as Chancellor (*ib.*). Similarly the bill of complaint of Hewyt and others against the Mayor &c. of London in 1500 is addressed to the Bishop of Salisbury, Lord Keeper (p. 71). The plaintiff in *Treherne v. Harecourt* in 1503 appears to address himself to the 'Kynges most honorable Councell in his Starre Chamber' (p. 162). The petitions of the Mayors &c. of Gloucester and the Bailiffs &c. of Worcester (pp. 209, 213) stand on a different footing from the others. By the Act 19 Henry 7, c. 18, § 3 ('De Fluvio Sabrini'), corporations &c. desirous of proving their title to tolls on the Severn are specifically directed to appear 'before the Lordis of the Kynges honorable Counseill in the Sterre Chamber at Westminster,' and Whyte, the opponent of the claims of the Corporation of Gloucester, naturally followed this direction (p. 225).

The other instances in which the Star Chamber is mentioned *eo nomine* as the tribunal of hearing are the Abbot of Eynesham *v. Harecourt and others* (p. 137), where the address follows the form

prescribed by Coke; and the Master (William Grocyn) and Brethren of All Saints College, Maidstone, *v. Kempe* (p. 271), which does the same. Excluding the three instances having reference to the Severn tolls for the reasons given, we have five cases, in which there is no possible doubt that the Court of Star Chamber was the adjudicating tribunal, tried after the Act of 1487; yet in only two of these five is the petition addressed to the Chancellor, in conformity with the explicit direction of that Act. Neither, on the other hand, is the form prescribed by Coke, an address to the King, followed in more than two cases. Coke, in short, infers the practice of the fifteenth and sixteenth centuries from that of his own day. This is the more surprising in that the Act 31 Hen. 6, c. 2, temporarily legalising writs of Privy Seal against rioters, recites that they have been customarily issued with a summons 'to appear before him (the King) in his Chancery or before him and his Council.'

b. It is noteworthy that in the three consolidated cases in which one Broke was defendant (pp. 38-45), heard in 1494, the indorsement of the writ to be issued is '*coram domino rege.*' This indorsement is, however, remarkable in another point. It runs, as originally written, '*coram domino Rege vbicunque fuerit infra x dies post visum literarum*' (p. 42). Interlined, apparently in substitution for the first four words, are these: '*apud Westmonasterium crastino purificationis.*' It is with the original form that we are concerned. It carries us back at least to the age of John,¹ when the King was holding Court with a body of attendant judges as he made his progresses through the kingdom. The rolls of that part of the Curia Regis, which subsequently became known as the King's Bench, were styled the '*Coram Rege* rolls,' and summoned the litigant to appear 'before us wheresoever we shall be in England.'² That part of the Curia Regis which eventually became the judicial body known as 'The King in Council' necessarily retained the formula '*ubicunque &c.*' after the Curia Regis in its more limited sense was stationary at Westminster. Of the twin prerogative Courts, the Court of Requests and the Court of the Star Chamber, the Court of Requests continued during the reign of Henry 7 to issue writs with the clause '*ubicunque &c.*'³ though without the words '*coram Rege.*' After its settlement by Wolsey in the White Hall of the palace of Westminster, it frequently added to '*coram consilio domini Regis*'

¹ For references to the discussion of the antiquity of this formula see Professor F. W. Maitland's preface to '*Select Pleas of the Crown*' (Selden Soc. 1887), p. xiii, n. 3.

² P. and M. '*Hist. Eng. Law,*' i. 177. E. Coke, 4 Inst. 76.

³ See '*Select Cases in the Court of Requests,*' pp. 2, 8, Selden Soc. 1898.

the words 'apud Westmonasterium'¹ and occasionally made its writs returnable 'coram consilio domini Regis in le Whight halle.'² The more important Court, that known as the Star Chamber, did not issue writs of summons 'ubicunque,' but frequently retained the words 'Coram Rege et Concilio suo,' as we see in the cases of *Carter v. the Abbot of Malmesbury* (p. 121), the *Abbot v. the Bailiffs of Shrewsbury* (p. 208), *Powe v. Newman* (p. 229), *Butlond and others v. Austen* (p. 265), and *Jones v. Lychfeld* (p. 276). The words 'Coram Rege et Concilio suo' are in the first, second, and last of the above cases followed by the words 'apud Westmonasterium.' These words are absent from the indorsements of *Butlond and others v. Austen* (p. 265), and *Powe v. Newman* (p. 229). But that from their absence it must not be inferred that they were cases heard before the Council and not before the Star Chamber appears from the fact that we have express evidence to the contrary in the case of *Butlond &c. v. Austen* (p. 264, n. 10).³ Other writs and indorsements are simply 'apud Westmonasterium' in the cases of *Couper v. Gervaux* (p. 38), and *Halle v. Essex* (p. 174); 'Coram dominis de consilio nostro in Camera Stellata,' in the writ issued on the petition of the Bailiffs of Worcester (p. 217); 'Coram Consilio Regis apud Westmonasterium' in *Straunge v. Kenaston* (p. 275); 'coram Domino Rege et Consilio suo apud Westmonasterium' in *Jones v. Lychfeld* (p. 276). In the time of James I the writ was returnable 'Coram Domino Rege in Camera Stellata coram consilio ibidem.'⁴ But Hudson gives one of the same reign returnable 'coram Nobis et dicto Concilio nostro apud Westmonasterium.'⁵ These facts seem to point to the significance of the indorsement in *Smyth v. Broke* as being that the cause was originally brought in the King's Court of Requests and thence remitted to the Star Chamber. This would account for the clause 'ubicunque.' That it was not a petition presented to Henry 7 on a progress is probable from his Itinerary as shewn by his Privy Purse expenses. It thence appears that on January 26, anno 9 (1494), he was at Thistelworth (Isleworth), having arrived at Windsor on the preceding day from Minster Lovel in Oxfordshire, and at Thistelworth he remained until January 31, when he travelled to Westminster.⁶

¹ 'Select Cases in the Court of Requests,' pp. 40, 41, 46, 198. Selden Soc. 1898.

² *Ib.* p. 176. Or 'coram consilio domini Regis (in) le Whyte halle apud Westmonasterium,' *ib.* p. 190.

³ In the case of *Carter v. the Abbot of Malmesbury* a 'Dedimus Potestatem' for the examination of a witness was issued with the clause 'ubicunque' (see p. 122, n. 7, where reasons are given for the conclusion that this was nevertheless a Star

Chamber case). The form on p. 218 represents a later stage in the evolution of the Star Chamber as a tribunal distinguishable from the Council.

⁴ Apparently per Ellesmere, C., in 1606. See J. Hawarde, 'Les Reports' &c., p. 302.

⁵ 'Treatise of the Court of Star Chamber,' p. 145.

⁶ 'Excerpta Historica' (1831), p. 26. Privy Purse expenses of Henry 7.

The litigants in that case were inhabitants of Castle Bromwich, Warwickshire.

There is, however, one case here printed in which a writ in the form of 'ubicunque fuerit' would have appropriately responded to the prayer of the bill. That is the case of *Goryng v. the Earl of Northumberland*, in which the plaintiff petitions the King 'to do calle in examinacion before you and your most honourable counseill at .suche day and place as it shal please your grace to appoincte in this your progresse and journey the said matier' (p. 98). Very unfortunately, the indorsement, which is on the replication, is illegible. But the form of the prayer points to the exercise of the old judicial authority of the King in Council at a period certainly posterior to the Act 'Pro Camera Stellata.'

c. Hudson raises the question whether the filing of the Bill or the issue of the Writ should be the first step. He justly observes that the words of the Subpœna 'import the Bill to be filed before the Writ granted; for it is "quibusdam certis de causis coram nobis et concilio nostro expositis," which is matter contained in the Bill.' The history of procedure given by him is, briefly, as follows: that at a later date it became the practice 'to have the process before the Bill'; that this having given rise to the issue of subpœnas by solicitors in distant parts of the kingdom, by way of blackmail, Lord Chancellor Ellesmere 'did enjoin Bills to be filed before any process were awarded,' and after his death (1617) the practice suppressed by him was revived.¹

So far as can be inferred from the few indorsements here printed, Hudson's argument from the words of the Subpœna is sustained. The issue of 'breuia sub privato sigillo' in the case of *Couper v. Gervaux* is 'prout petitur' (p. 38). The indorsement in the Bishop of Worcester against Thomas and others (p. 231) is not clear, but from that of *Straunge v. Kenaston* (p. 275) it is apparent that the Writ was issued upon the filing of the Bill. Indeed, the prayers throughout assume that the appearance is to be made to answer the case already stated. 'To answer to the premisses' is the common form, and conformably

¹ Hudson, p. 143. It would seem that the idea of issuing process before bill filed was, so far as the Court of Chancery was concerned, at least as old as the reign of Henry 5. An Order in Chancery of that reign lays down: 'Quod nullus scribens ad sigillum primum processum (videlicet) breve de subpœna ad comparandum (sic) conficiat et ad sigillum producat priusquam billam cum manu unius Consiliariorum barram

Cancellarie frequentancium recipiat et in filum cancellarie imponat.' G. W. Sanders, *Chancery Orders* (1845), 7 d. Similarly in Chancery 'in ancient times the Subpœna was not issued unless the case stated in the bill was considered to warrant it, and the Chancellor sometimes took the advice of the judges on the subject.' G. Spence, 'Equitable Jurisdiction' (1846), i. 369.

to this the indorsements convey the impression, where they do not actually so state, that they are subsequent to the Bill.

The titles of the plaintiff's statement of his case are 'Bill' and 'Bill of complaint,' generally the latter. In one instance, the statement of defence in *Smyth v. Broke*, it is called a 'bill of petition' (p. 43).

Hudson's chapter (Part III. § vii.), 'Of the process whereby appearance is required,' discloses that in his time the original significance of the different forms of Process was lost. 'In antient times, when complaint was made either of some notable outrage or fraud to the King, the Lord Chancellor, or Council (sometimes the King) by letters missive commanded the delinquent to answer in the Star Chamber. Sometimes any of the Council to whom the complaint was made sent for the offender and took him by recognizance to appear in the Star Chamber; which course is yet usual. Sometimes the Lord Chancellor sent a serjeant-at-arms to admonish them to appear; sometimes a messenger of the King's chamber served the Privy Seal; sometimes a Subpœna was awarded to be served by the party and his servant; and all these kinds of summons or original process I find in the records of Hen. 7 and Hen. 8.' He also shews that though in the time of Charles 1, the period at which he writes, peers demanded as a privilege a summons by Letters Missive, the other forms enumerated were in use in their case during the first half of the sixteenth century.

The distinction between Letters Missive and a Privy Seal was that Letters Missive were under the King's signet, while letters of Privy Seal issued from the office of the Keeper of the Privy Seal. Letters Missive had, therefore, a more personal and private character.¹ Hudson tells us that 'the great peers of the realm do deny to appear upon the ordinary service,' which appears to be Subpœna, 'but require letters of summons, like Letters Missive, from the Lord Chancellor or Lord Keeper, which certainly, for all latter times, have been yielded unto for their dignities. And yet I find in Hen. 7's time a privy seal was served upon the Earl of Kent to appear in this court; and in 3 Hen. 8 the Lord of Abergavenny warned by the serjeant-at-arms to appear; and in 11 Hen. 8 the Lord Ogle was committed for a contempt in breaking a privy seal directed unto him, and divers lords bound over to appear by recognizance; so that I doubt the antiquity of this grace (if it be so esteemed); the King's broad seal being as honourable as the Lord Chancellor's letter, but only that the other is

¹ See Sir H. Nicolas, Preface to *Proceedings &c. of Privy Council* (1837), vi. p. cxlvii &c., and E. Coke, 2 Inst. 554-6.

a more singular course, differing from the common sort of people. His next sentence incidentally indicates in what, in his time, the essential distinction lay. 'The privy seal, or subpoena for appearance which I take to be all one), is of one and the same form for all' (p. 144). It may, perhaps, be inferred therefore that what was particularly objected to on the part of the peers was a summons to appear with a penalty expressed upon default.

It will be observed that in this passage Hudson speaks of the process of the Court of Star Chamber as issuing under the Broad or Great Seal, whereas elsewhere he, as well as Mill and Cotton, who were also both clerks of the Court, habitually speaks of it as issuing under Privy Seal. Coke, on the other hand, says: 'All the writs and processe of the court are under the great seal';¹ and again, more specifically: 'The processe in this court is suppœna, attachment, processe of rebellion, &c., all under the great seal.'²

The explanation of this seeming contradiction is that, while the statements of all the writers are true, the three clerks speak as officials of the Court and Coke as a lawyer. In the 'Articuli super Chartas,' c. 6,³ the sixth chapter laid down that 'there shall no writ from henceforth, that toucheth the common law, go forth under the petty seal' (desouth le petit seale). This was the seal which, as Coke tells us, was 'after this time called the privie seale.' Coke notes upon the above chapter: 'This act saith not that all writs which concerne the common law shall passe under the great seale; but no writs shall pass under the privie seale which touch the common law.'⁴ Accordingly, the Council, in the exercise of its indeterminate jurisdiction, continued to issue writs and letters of Privy Seal commanding appearance with a penalty expressed. In reply to a petition of the Commons in 1401 complaining of this Henry 4 replied that such writs should not thenceforth be issued, except at discretion of the Chancellor or of the King's Council.'⁵ This reply conceded nothing, and the preamble to 31 Hen. 6, c. 2 (1453), reads as if the former practice continued. It recites that, for the suppression of the riots and 'crimés there set forth, the King 'ad done en commaundement auxibien par ses briefs desoubz son grande seall come par sez lettres de prive seall dapparoer devaunt luy en sa Chauncerie ou devaunt luy & son dit Counsaill.' This suggests that at this time the Council issued letters of Privy Seal without the Chancellor's consent. Nevertheless, this interpretation is doubtful, especially in view of what we know to

¹ 4 Inst. c. 5; 'The Court of Star Chamber,' f. 64.

² Ib. f. 66.

³ Anno 28 Ed. 1 (1300). See Coke, 2 Inst. c. 6, f. 555.

⁴ Ib.

⁵ Rot. Parl. iii. 471, b.

have been the later practice of the Star Chamber.¹ It is suggested, therefore, that the discretion of the Chancellor was signified in the affirmative after 1401 by passing writs &c. of Privy Seal under the Great Seal, and that in this, as in other matters of procedure, the Court of Star Chamber followed the precedent of the Council. Upon this practice in the Court of Star Chamber in the reign of Charles I Hudson is as explicit as Coke. 'The duty,' he writes,² 'of the process maker or clerk of the process . . . is to write all process of Subpœna³ for appearances, costs, or damages, all attachments, commissions of rebellion and commissions for examination of defendants or witnesses, habeas corpus, certiorari, writs of extent, and all other writs whatsoever which are returnable in this court or issue from thence; all which he bringeth to the Great Seal to be sealed; and for all these he receiveth his warrant from the clerk of the Court.' This sufficiently explains Coke's statements and Hudson's phrase.

Although, doubtless, in Hudson's time, a Subpœna was attached to every writ of Privy Seal, the two forms of process were not necessarily united, a summons for appearance under Privy Seal, whether it took the more mandatory form of a writ (*breve*), or that of a letter (*litere*),⁴ at first expressed no penalty. The writ ran in the form called by the Commons in a petition of 1389 'brief Quibusdam certis de causis' (Rot. Parl. iii. 267). An example is printed by Palgrave in the appendix to his Essay upon the Original Authority of the King's Council (p. 132) from Rot. Claus. 20 Ed. 3, p. 2, m. 4, d, as follows: 'De essendo coram consilio Regis. Rex, Ricardo capellano uxoris Johannis de Grymmestede chivaler, salutem. Quibusdam certis de causis coram consilio nostro propositis, tibi præcipimus firmiter injungentes quod omnibus aliis prætermisissis, sis in propria persona tua coram dicto consilio nostro in cancellaria nostra, et ad faciendum ulterius et recipiendum quod curia nostra consideraverit in hac parte. Et habeas ibi hoc breve. Teste custode &c. apud Eltham xxvi die Decembris. Per consilium.'⁵ The history of the Subpœna is told in

¹ See p. xxiii and n. 1, *infra*.

² 'Of the Court of Star Chamber,' p. 47.

³ There appear to have been six Subpœnas—Ad comparendum, Ad faciendum meliorem responsionem, Ad rejuvendum, Ad audiendum judicium, Ad solvendum custag(ia), Ad solvendum damnum (W. Mill in B. M. Hargr. MS. 216, f. 177). Each of these cost a fee of 2s. and the writ one of 2s. 6d. (ib.) This was in 1598. There is also a list of fees in 'Camera Stellata,' Hearne's 'Curious Discourses' (1771), p. 305.

⁴ A curious example of the difference

in tone of these two forms of process is suggested by a resolution passed in Parliament in 1387, that a letter of Privy Seal be sent to the Master of Prussia (al mestre de Pruys) asking redress (Rot. Parl. iii. 254, a); while in 1389 the Commons prayed for the issue of a writ (Brief du Prive Seal du Roy) against the Constable and Marshal of England, whose Courts they charged with encroachment on the common law. Ib. 265, a.

⁵ Other writs of summons issued from the Chancery may be seen in Select Cases in Chancery (Seld. Soc 1896).

a petition of the Commons in 1415. It sets forth that 'as divers of your realm feel themselves greatly grieved, because of your writs called writs sub pœna and certis de causis, made and sued out of your Chancery and Exchequer concerning matters determinable by your common law,¹ which never were granted nor used before the time of the late King Richard; that John Waltham, late bishop of Salisbury, of his subtlety caused such novelty to be found and commenced against the form of the common law of your realm.' After dwelling on the loss to the Exchequer arising from the new process, the fee for the issue of a writ of subpœna being no more than 6*d.*, the Commons prayed that the issue of such process might in future avoid the proceedings in respect of which such issue took place, as well as the process itself. The petition was refused (Rot. Parl. iv. 84). The invention of the writ dates back to the end of the reign of Edward 3, when John de Waltham, who in 5 Richard 2 (Sept. 8, 1381) became Master of the Rolls, held an inferior place in the Chancery (Palgrave, 'Essay,' p. 41).²

A comparison of one of the earliest writs of Subpœna, belonging to the year 1363, with the ancient writ 'Quibusdam certis de causis' discloses in addition to the sub pœna clause the insertion of three words 'ex parte nostra' which may be taken to have formed the foundation upon which a large part of the pretensions of the Court were subsequently reared, whether by the servility of the lawyers of the Jacobean age or of their predecessors under the Tudors is as yet uncertain. Hudson is never weary of insisting that in the Court of the Star Chamber the suitor is the King, though this doctrine is not easily reconcilable with his admission that the King may also be defendant (p. 139). Accordingly, in defining the jurisdiction of the Court, he says: 'The causes there handled are either public or private, and they are respectively either civil or criminal. . . . Civil causes are here properly determinable civilly, which are of two sorts, ordinary or extraordinary; ordinarily the suits of the King's almoner;

¹ The objections to the writ of Subpœna are set forth in the Tract of the time of Henry 8. 'Concerning suits in Chancery by Subpœna, Part I.' (F. Hargrave, Collection of Law Tracts [1787], p. 327.) 'If a subpœna had bin a writ ordained by the lawe of the realme to reforme a wronge, as other writs in the saide booke (Natura Brevium) be, he shold have bin set in the booke of Natura Brevium and the nature of him declared there, and for the reformation of what wronge it layeth, as it is in the writs contayned in the saide booke; and

for as moche as it is not so, it is a writ abused in mynde contrarie to the common lawe of the realme and contrary to reason and all good conscience, and yet is coloured by the pretence of conscience.'

² The main dates in the life of John de Waltham, the year of his birth being unknown, are—Master of the Rolls Sept. 8, 1381–Oct. 24, 1386; Keeper of the Privy Seal, Oct. 24, 1386; Bishop of Salisbury, April 3, 1388; died Sept. 17, 1395. 'Dict. Nat. Biog.'

and extraordinarily, other great matters of interest betwixt the King and his subject, which are accompanied with conveniency to the state, as well as *meum and tuum*' (p. 49). Hudson, however, as will presently be seen, derives this conclusion from the indorsement in use upon the writs of his own day. As that indorsement does not appear on those of the age of Henry 7, it follows that its origin must be looked for elsewhere, and it is easily discernible in the writ itself as presumably altered by John de Waltham. Such a writ, belonging to the year 1363, and issuing upon a bill or petition addressed to the King and Council, runs as follows:—

'Edwardus &c. dilecto sibi Ricardo Spynk de Norwyco, salutem. Quibusdam certis de causis, tibi præcipimus firmiter injungentes quod sis coram consilio nostro apud Westmonasterium die Mercurii proximo post quindenam nativitatis Sancti Johannis Baptistæ proximo futuræ ad respondendum super hiis que tibi objicientur ex parte nostra, et ad faciendum et recipiendum quod curia nostra consideraverit in hac parte. Et hoc sub pœna centum librarum nullatenus omittas. Teste meipso apud Westmonasterium tercio die Julii anno regni nostri tricesimo septimo &c.' Rot. Pat. 38 Ed. 3,¹ p. 1, m. 15; Palgrave, p. 41, n.

In the reign of Henry 4 a significant change was introduced testifying to the increasing importance of the House of Commons. Having failed in their repeated endeavours to abolish the authority of the Council in matters litigious, they sought to accomplish the same end by insisting on an indorsement expressing the assent and request of the Commons as indispensable to any bill preferred by a litigant (Rot. Parl. iv. 127, 8 Hen. 5). It appears from this petition that bills before the Council were then indorsed 'by authority of Parliament.' Palgrave (p. 75) prints a Subpœna of November 24, Hen. 4 (1402), which expresses this on the face by the addition after '*consilio nostro*' of the words '*in presenti parlamento.*' It is also to be observed that the words '*ex parte nostra*' are omitted and '*coram nobis*' inserted. This writ runs as follows: '*Henricus Dei gratia Rex Angliæ et Franciæ et Dominus Hiberniæ Ancelmo Gyse salutem. Quibusdam certis de causis coram nobis et consilio nostro in presenti parlamento propositis, tibi præcipimus firmiter injungentes quod omnibus aliis prætermissis et excusacione quacumque cessante in propria persona tua sis coram nobis et consilio nostro apud Westmonasterium in octabis Sancti Hillarii proximo futuri ad respondendum super hiis quæ tibi*

¹ This would be under the Great Seal. Cp. p. xx, supra.

objicientur tunc ibidem, et ad faciendum ulterius et recipiendum quod per nos et dictum consilium nostrum super præmissis contigerit ordinari. Et hoc sub pœna trecentarum librarum nullatenus omittas. Teste me ipso apud Westmonasterium xxiiij. die Novembris anno regni nostri quarto. Per petitionem in parlamento. Rome.’¹

Without prejudging the question of the relation of the Court of the Star Chamber to the statute of 1487 (3 Hen. 7, c. 1), it is undeniable, as Hudson insists, that its forms followed those of the Council² as a body exercising judicial functions, and ran in the Council’s name. When the words ‘in parlamento nostro’ were omitted in the case of petitions which had been filed during the sitting of Parliament does not appear. The change in the next summons of ‘et’ into ‘in’ (‘coram nobis in concilio’ &c.) was perhaps made in exaltation of the prerogative, and the ‘per nos et dictum consilium’ of the writ of 1402, which involves the notion of the King as a judge, supports the claim which James 1 advanced and exercised, as Hudson tells us, to sit and act as judge in the court. The writ in that king’s day ran as follows: ‘Jacobus Dei gratia &c. Quibusdam certis de causis coram nobis in concilio nostro propositis &c. tibi præcipimus, firmiter injungentes, quod omnibus aliis prætermisissis et excusatione quacunque cessante, in propria persona tuis sis coram nobis et concilio nostro apud Westmonasterium in Octabis Michaelis proxime futuri ad respondendum ulterius quod per nos et dictum consilium nostrum consideratum fuerit in hac parte; et hoc sub pœna centum librarum; et habeas ibi hoc breve. Teste &c.’ This writ, he goes on to tell us, was indorsed with the plaintiff’s name as follows: ‘J. D. sequitur hoc breve,’ ‘by which it appeareth that the suit is the King’s and the grieved party but the prosecutor, for otherwise his name and cause should be specified in the writ as in all writs at the common law, viz. Præcipe A. B. quod reddat C. D. £20 quas ei debet et injuste detinet, &c.’ (Hudson, p. 145).

In the cases contained in this volume we have very little evidence to show what were the relations between the form of process and the rank of the delinquent. There are five in which the defendant was a lord of Parliament. They are the Duke of Suffolk (p. 15), the Abbot of St. Augustine’s, Canterbury (p. 20), the Abbot of St. Bennettes Holme (p. 50), the Earl of Northumberland (p. 95), and the Abbot of

¹ John Rome, clerk of the Parliament, as the indorsement tells us. Palgrave, p. 75.

² And, as might be expected, of the Chancery also, the Lord Chancellor being in all three Courts, if we may distinguish

the Court of the Star Chamber from the Council, the chief judicial person. See G. Spence, ‘Equitable Jurisdiction of the Court of Chancery’ (1846), ch. vi.

Malmesbury (p. 118), who was also treated by the Court as a defendant, although not nominally such, in the case of Culford *v.* Wotton (p. 47). In the instances of the Duke and the Abbot of St. Bennettes Holme the petitioners do not venture to specify the precise form of process which they desire should be issued. The answer of the Abbot of St. Augustine's, Canterbury, seems to indicate that he had been served with the document known as a 'Privy Seal' (p. 20). In *Carter v. the Abbot of Malmesbury*, the plaintiff, Carter, asks for the issue of a Subpœna (p. 121). There is no indorsement recording that he got it; but in the case of *Culford v. Wotton* the Court proprio motu ordered the issue of 'litere sub pœna' to the same Abbot, as head of the house of which the defendant was a brother (p. 47). Since the prayer of the complainant in *Carter v. the Abbot of Malmesbury* cannot be taken as conclusive of the practice of the Court, we are reduced for our knowledge of the form of process issued against lords of Parliament to this last example. We have also the indorsement in *Culford v. Wotton* (p. 47), where the word 'litere' may be interpreted 'Letters of Privy Seal.'

If, therefore, the form of process was not in the early Tudor period determined by the rank of the defendant, did it depend upon the quality of the act which brought him before the Court? To this question the cases before us scarcely afford an answer. In a large proportion the plaintiffs pay for redress in general terms without specifying the process they desire to issue. Assuming the judicial power of the King in Council to have originated from the patriarchal dispensation of justice by the King in person sitting, after the manner of St. Louis, under a tree, or like our own Henry 4 and Henry 5 resting upon a cushion after dinner,¹ arrest by a serjeant of arms would probably be the original form of process, especially in the case of *flagrantia delicta*, such as riot. Now riot appears in most of these pleadings, frequently as common form, there being, as more than one case shows, an impression that where no riot was alleged a demurrer might lie. In some of the cases, on the other hand, riot in a popular sense and without the minimum connotation legally attachable to the term is a substantial ground of complaint. How greatly the form of process prayed for varied in these latter cases will best be seen by presenting them in parallel columns.

Name of Case.	Process prayed for.
1. Mayor &c. of Exeter <i>v.</i> Stoden and others.	Seriant of Armes (p. 2).
2. Joyfull <i>v.</i> Warcoppe.	'Lettres of priue Seal' (p. 106).

¹ 'Stow's Annals,' 342; Palgrave, p. 79, n.

Name of Case.	Process prayed for.
3. Pynson and others <i>v.</i> Squyer and others.	Unspecified (p. 116).
4. Abbot of Eynesham <i>v.</i> Harecourte and others.	'Writtes of Sub pena' (p. 151).
5. Walterkyn <i>v.</i> Letice.	Seriaunt of Armes (p. 166).
6. Bishop of Worcester <i>v.</i> Thomas and others.	'Letters of pryue seale' (p. 231).
7. Principal of Furnivall's Inn <i>v.</i> Johnson and others.	Unspecified (p. 240).
8. Colthurst <i>v.</i> Gentlemen of Furnivall's Inn.	'Sergeant of Armes' (p. 247).
9. Furbur <i>v.</i> Principal of Furnivall's Inn and others.	'Sergeant of armes' (p. 248).
10. Abbot of Byland <i>v.</i> Warcoppe.	'Writ of sub pena' (p. 258).
11. Straunge <i>v.</i> Kenaston.	'Letturs of privey seale' (p. 275).

The only other case in which the dispatch of a serjeant of arms is prayed is in that of *Hewyt and others v. the Mayor and Corporacion of London*, where the plaintiff desires a prompt surrender of his unjustly confiscated goods (p. 72). If Letters of Privy Seal and Writs of Subpœna may be identified, this review suggests that although generally ousted by the more pacific process, the ghost of the serjeant of arms still lingered,¹ to be invoked where the summary

¹ In the fourteenth century the serjeant of arms was a very formidable personage whose abuse of authority was the subject of repeated remonstrances by the Commons. This points to his being regarded as the peculiar instrument for enforcing the disputed powers of the Council. In 1363 John de la Lee was impeached because being steward of the King's household he caused divers persons to be bodily arrested, some by serjeants of arms and some by another way (*par autre voie*) and to be brought before himself as before the King's Council' (Rot. Parl. ii. 297, 22; 42 E. 3 [1368]). In 1386 the Commons protested against the insupportable number of serjeants of arms, 'qui font grant oppression et extorsions par colour de lour offices a la poeple,' and petitioned that their number might be reduced to its former limits (Rot. Parl. iii. 223, a; 10 Ric. 2 [1386]). Nothing appears to have been done, and in 1389 the Commons prescribe twenty-four as the

number of ancient custom. They further demanded that they should be paid regular wages, to prevent the commission by them of 'grantz extorsions et oppressions al poeple.' The King replied that they should be reduced to thirty and forbidden extortion &c. (ib. 265; 13 Ric. 2 [1389]). In 1394 he was requested to carry his promise into effect (ib. 318, b). Like complaints were repeated in 1397 (ib. 354, a; 21 Ric. 2). That the process changed or the number really had been superfluous appears probable from the fact that after this date such complaints cease. The 'serjeant-at-arms' still survives on paper as an officer of the Court of Chancery whose function it is to attach a defendant upon the return by a sheriff of 'non est inventus.' But this is practically obsolete. See Daniell's 'Chancery Practice' (7th ed. 1901), i. 713; H. W. Seton, 'Judgments and Orders' (6th ed. 1901), i. 448.

suppression of rioters or speedy restitution was thought to be demanded by the circumstances. That the serjeant of arms was not merely a bearer of Writs or Letters of Privy Seal appears from the prayer in *Walterkyn v. Letice* (p. 166), which requests the grant of 'your gracioux lettres of priue Seale to be directed' to the defendants 'or a seriaunt of Armes or sum other commaundement them and euery of them straitly commaunding by the same tō appere' &c. This inference is confirmed by the passage above quoted from Hudson, stating that 'the Privy Seal' was served by messengers of the King's chamber.¹

The indorsements, which are not numerous, tend in favour of the identification of the other forms of process at this date. In *Couper v. Gervaux* (p. 38) we read of the issue of 'breuia sub priuato sigillo . . . sub pœna,' xl. li. In *Smyth v. Broke*, 'litere' have been issued 'sub pœna,' lx. li. (p. 42). The defendant in this case was of no such social standing as to be entitled to the issue of 'litere' in lieu of 'breuia.' The issue of 'litere sub pœna' against the Abbot of Malmesbury in *Culford v. Wotton* (p. 47) has already been noticed. 'Decretum est Privatum Sigillum' and 'retornabile . . . sub pœna . . . c. marcarum' are two notes in *Mayne and others v. Gibbes and others* (p. 130), the first an indorsement, the second on the face of the document. They indicate, though they do not prove, that 'a Privy Seal' implied a Subpœna. Lastly, the prayer in *Straunge v. Kenaston* (p. 275) for 'letturs of priuey seale' and the indorsed notification of the issue of a Subpœna under Privy Seal seem to complete the identification. What Hudson stated to be true of his time may be taken as true of that of Henry 7. They, the Privy Seal and Subpœna, were 'all one,'² and apparently issued without respect either to the persons of the parties or the substance of the matter charged.

¹ This is supported to some extent by a passage in Rot. Parl. iii. 439, b (1 Hen. 4 [1399]), where the Commons petition for an inquiry 'combien les pourtoirs des Lettres le Roy & Cleres & Sergeantz d'Armes pur arrester Niefs pur viage le Roy, ount pris en brocage & en douns.' This seems to imply that the King's messengers were a class distinct from the serjeants of arms. On the other hand, in the impeachment of Thomas Mortymer in 21 Ric. 2 (Rot. Parl. iii. 380, b [1397]), it is mentioned that the King 'avoit enuoiez ses maundements par Edward Dee un de ses Serjeantz d'Armes en sa Terre d'Irland, directz a dit Thomas Mortymer

adonqes illeques esteant.' But this was a case in which forcible resistance might have been anticipated. So a bill filed in Chancery, temp. Hen. 6, complaining of violent outrage on the part of the defendant, prays the Chancellor 'to comound a sergeaunt of armez to bryng hym before the kyng in his chauncerie' 'Cal. of Proc. in Chanc. Rec. Comm.' (1827), p. xlviii. Izaacke Cotton, a clerk of the Court, writing in 1622 says, 'The messengers of this Court are the Marshalls men or a Serieant at Arms.' B. M. Lansd. MSS. 639, f. 144.

² 'Of the Star Chamber,' p. 144.

d. After the service of the Subpœna or other summons the defendant made appearance conformably to the prayer of the bill and to the terms of the process. In the time of Henry 7 appearance was, according to Hudson, in person before the Court. 'Then must he (the defendant) enter into a bond not to depart without license of the Court which, in antient times, was done upon every appearance, and in those days most commonly with sureties to appear a die in diem, which was long time used, but now never used but upon great cause' (ibid. p. 159). There are no records of this proceeding among these documents, probably because of the loss of the Order Books of the Court.¹ But the Order Books of the Sister Court, the Court of Requests, are preserved, and an example will illustrate the procedure. In the case of the Mayor and Citizens of Exeter against John Bonyfant, heard in 1499, the indorsement on the petition shows that it was filed on November 18, 1498. From the Order Book we learn that the defendant appeared on February 10, 1499, which, remarkable to say, was a Sunday, and was ordered to appear and put in his answer by the following Monday. These being the days of the week, we may perhaps conjecture that having been, in the previous November, ordered by inadvertence to appear upon February 10, probably so many days after the Feast of the Purification of Our Lady (February 2), he appeared on the first Court day after, the 10th being a holyday, and was granted a week within which to file his answer, his appearance being dated as conformably to order to save the penalty. This agrees with Hudson's statement that 'the defendants have eight days to frame and bring in their answer into the Court' (p. 161), i.e. into the Court of Star Chamber. The order runs that the defendant has appeared under the Subpœna of 100*l.*, has till the Monday following to file an answer and to appear 'et sic de die in diem quousque &c. sub eadem pœna.'²

The next step was to file the answer. On this the defendant was sworn. In this there seems to have been a change in the practice of the Court between the time of Henry 7 and that of James 1. 'The defendant,' says Hudson, 'must either put in a plea, demurrer, or an answer, or (as Serjeant Hale did) an answer having all those titles.' This proceeding on the part of Serjeant Hale,³ which Hudson notes

¹ In *Goryng v. the Earl of Northumberland* (p. 97) the plaintiff upon the analogy of this procedure offers to be 'forth com-myg vpon suffisaunt suretie to be made vnto the said Erl of Northumberland.'

² *Select Cases in the Court of Requests*, Selden Soc. 1898, p. 6.

³ Qu. was this Robert Hale (d. c. 1614) the father of the celebrated Sir Matthew Hale, C.J., who is recorded to have abandoned his profession owing to his dislike of the use of legal fictions in pleading 'which, as he thought, was to tell a Lye' (Gilbert Burnett, 'Life of Sir Matthew Hale' [1682],

as exceptional, seems to have been the rule in the time of Henry 7, when the art of multiplying costs was presumably in its infancy. The defences in this volume do not confine themselves to one of these three courses. The case put forward by the Abbot of St. Augustine's, Canterbury, against the Prior of Bath is, as has been noted, somewhat anomalous. In form it is a bill of complaint; in substance, an answer to a bill previously filed by the Prior. It opens with a demurrer to the bill for insufficiency and uncertainty, and concludes with a plea to the jurisdiction of the Court (pp. 20-21). The answer of John Fitzherbert (pp. 61-64) opens with what Hudson describes as 'a plea to the matter of charge (which) sometimes admitteth the matter and yet alledgeth foreign matter of record that he ought not to answer it' (Hudson, p. 163). It concludes, like the Abbot of St. Augustine's answer, with a plea to the jurisdiction of the Court. In the answer of Sir Robert Letice, clerk, and others, the defendants first demur for insufficiency &c., next plead to the jurisdiction of the Court, and then introduce the substantial defence with the formula, 'And thauauntage therof to them sauid for declaracion of trowth and answer seyen that' &c. (p. 166). The same course is followed by the defendant in *Smyth v. Broke* (p. 43); by the Abbot of Malmesbury at the suit of Robert Carter (p. 122); by William Essex at the suit of William Halle (p. 175); by John Newman at the suit of Thomas Powe and another (p. 229); by Robert Warcoppe at the suit of the Abbot of Byland (p. 261); and by Randolph Austen and others at the suit of John Butlond and others (p. 266). Other defendants, as Squyer and others at the suit of Pynson (p. 116), and the Principal and Fellowship of Furnivall's Inn at the suit of Colthurst and Furbur (p. 248), content themselves with a demurrer to the 'insufficiency' of the bill, set out their account of the facts, and traverse the allegations of the plaintiffs. The defendant in *Jones v. Lychfeld* appears to have drafted his own answer (p. 276), informally contesting the several allegations of the bill. John Stoden and another simply tell their tale (p. 3).

The significance of the demurrer of 'insufficiency' is not very clear. Hudson says, 'Insufficiency of matter is alledged, sometimes that the matter in charge tendeth to accuse the defendant of some crime which may be capital; in which case *nemo tenetur prodere seipsum*; or upon a penal law, where he is to forfeit his goods; sometimes that the matter is proper for ecclesiastical cognizance, as

p. 3)? But I find no serjeant of the name in Foss's lists of serjeants made between 1558 and 1624, only John Heale called

serjeant-at-law 1594, Queen's serjeant 1602, King's serjeant 1603. E. Foss, 'Lives of the Judges' (1857), v. 414, 415, vi. 30.

defamation, or such-like ; sometimes that it is petty or trivial, and so not worthy the dignity of the Court. These and such-like are causes of demurrer for insufficiency of matter.'¹ The cases here seem to shew that insufficiency implies a plea to jurisdiction in favour of the Common Law Courts generally, and not, as Hudson seems to limit it, of the Ecclesiastical Courts only. It appears to mean, 'This bill is insufficient to put the defendant to answer here'; or it stands for 'trivial,' expressed in the answer of John Att Well as 'not material nor mater of substance' (p. 12). It is thus that the predication of 'insufficiency' of a bill involves the connotation, implied by Hudson, that the jurisdiction of the Court is 'insufficient' to take cognisance of it.

'Insufficiency' is constantly coupled with 'uncertainty.' 'Demurrer,' says Hudson (p. 164), 'is in all cases where there wanteth certainty, or legal words of charge in the bill.' The complaint of the Abbot of St. Augustine's, Canterbury, alleges 'insufficiente and uncerteynte' against that of the Prior of Bath (p. 20), and the form, borrowed, like many of the other pleadings, from Common Law procedure, commonly appears in the statements of defence, replications, and rejoinders throughout this volume. In Hudson's time the Court frequently referred the demurrers to the judges. We have no direct evidence that this was the procedure under Henry 7. 'Upon the judges' certificate,' says Hudson, 'if the same determine the matter which is referred that the defendant ought to make a better answer, thereupon doth the clerk of the Court make a warrant to the process-maker to make a subpœna ad faciendum meliorem responsionem, which is only in the form of the first subpœna, but that the same is indorsed with these words, "ad faciendum meliorem responsionem"' (p. 166). No such indorsement is to be found in the documents before us, and it is to be noticed that Hudson (p. 37) represents the process-maker's office as of recent creation, his duties having been formerly performed by the clerk of the Court. Nevertheless the form of indorsement was probably of old standing. However this may be, we have instances of the filing of second answers which were in effect 'meliores responsiones.' John Fitzherbert puts in a second answer indorsed 'Nouum responsum' (p. 59) in the same term as he put in the first. As the practice of referring demurrers to the judges was neither obligatory nor invariable, for they were sometimes decided 'by the judgment of the Court upon public motion or the lord keeper's private opinion' (Hudson, p. 165), this celerity makes for the infer-

¹ 'Of the Court of Star Chamber,' p. 164.

ence that judgment upon the demurrer was delivered by the Court of the Star Chamber then and there, since the judges could scarcely have put aside other business in order without delay to hear arguments upon points remitted to them. Two answers are filed in *Joyfull v. Warcoppe*, the defendants being added to and in some cases changed, presumably by order or with leave of the Court (pp. 107, 109). Two bills of complaint were filed by the Abbot of Shrewsbury in 1509, of which only the second survives (p. 189). Presumably this must have been filed after a judgement against the plaintiff on demurrer. Hudson says that if the defendant's plea or demurrer be held good 'then is he absolutely dismissed with his costs' (Hudson, p. 165).

An endeavour was made by lords of parliament in the reign of Elizabeth to raise a privilege of answering before this Court on their honour and not being sworn thereto. 'Henry, earl of Lincoln, stood upon this in Queen Elizabeth's time, but in vain, for he was overruled in it and did answer upon his oath' (Hudson, p. 167). Hudson cites three cases in the reign of Henry 8, two of temporal and one of a spiritual peer, to prove that the claim was an encroachment. The replication of the Prior of Bath that the form of the bill put in by the Abbot of St. Augustine's, Canterbury, was, 'by cause the said Abbot wold not be sworne vpon eny answer by hym to be made directly to the bille of the seide Prior' (p. 25), confirms Hudson's contention. No inference can be drawn from any other answers here put in by lords of parliament.

'An answer,' adds Hudson (p. 168), 'is not perfect without examination; and it is part of the oath taken, to make true answer to the interrogatories, which in antient times was called "examinatus super responsionem suam." In the time of Henry 8, he tells us, 'the examinations were taken by the Lord Chancellor in the Court, where the interrogatories were never above six or seven, and those every one a short question.' This was also the procedure in Chancery. An example is to be seen in the case of *Katherine Danyell v. Richard Belyngburgh*, *temp.* Hen. 6,¹ where the bill is indorsed, 'Infrascriptus Ricardus in Cancellaria Regis personaliter comparens & ibidem super sancta Dei evangelia juratus & examinatus ad veritatem dicendam de materia in hac billa contenta dicit quod' &c. This was one of the points in connexion with the jurisdiction of Chancery and the Council to which the Commons had in the previous reign taken special exception. 'Les queux plees ne purront prendre

¹ 'Cal. of Proc. in Chancery,' I. xxxi.

fyn, synoun par Examination & serement des parties, solonc la fourme de ley cyvyle & ley de Seinte Esglise, en subvercion de vostre commune ley.¹ That in the time of Henry 7 defendants continued to be sworn to their answers appears from the case of the Prior of Bath against the Abbot of St. Augustine's, Canterbury. The Abbot's answer is drawn in the form of a bill of complaint. This is perhaps an instance of Hudson's statement that a defendant may appear 'without process when any person of worth or honesty hath a scandalous bill filed against him; having notice thereof, he may appear gratis to purge his reputation' (p. 158). The Prior of Bath, however, alleges that the form of the Abbot of St. Augustine's answer was 'only of subtiltie and craft by cause the same abbot wold not be sworne vppon eny answer by hym to be made directly to the bille of the same Prior ne yef eny answer direct therunto, which is a right ieopardous president to be begon of newe' (p. 25). 'John Fitzherbert sworn saith that this his answe is treu in euery point and he saith,' &c. (p. 67). So 'Herry Squyer sworne vpon this his answer' (p. 117). 'Dan John Wotton sworn upon the bill of complaint and this his answer deposith' (p. 48). 'To the v^t vith and viith (interrogatories) it is answered to the bill' (p. 186), i.e. the statement of defence of the Bailiffs of Shrewsbury has already made answer. Only the indorsement of the bill in Treherne and another *v. Harecourt* suggests, though it does not prove, that Sir Robert Harecourt appeared to answer interrogatories viva voce before he filed his defence (p. 163). In the above cases, it will be observed, the interrogatories constituted the examination of the defendant. This was a proceeding distinct from and prior to the examination of witnesses, as may be seen in the case of Madeley *v. Fitzherbert* (p. 68). As has been stated, the examinations of the parties 'were taken by the lord Chancellor in the Court' in the time of Henry 8.² We have in *Kebell v. Vernon* a note that the deposition of the plaintiff was handed to the defendant's attorney by the Lord Chancellor in the Star Chamber (p. 134).

This examination of defendants on oath is admitted by the writers who do not regard the statute of 1487 as the origin of the Court to have been introduced by that Act into the practice before the Council. It was a change of great importance. The Court was authorised by the Act 'to call before theym by Wrytte or Pryvye seall the seid mysdoers and theym and other by ther discreSSIONS to whome the trouthe may be knowen, to examyn and such as they fynd therein

¹ Rot. Parl. 3 Hen. 5, vol. iv. p. 84, a (1415). See further p. lvi, infra.

² Hudson, 'Of the Court of Star Chamber,' p. 168.

defectiff to punyssh' &c. Upon this Coke glosses 'to examine the defendant, which being understood after his answer made to be upon oath upon interrogatories, which this ancient Court proceeding in criminall causes had not, nor could have but by Act of Parliament or prescription.'

e. It is curious that we have among these cases only twelve instances of replications. It cannot be because replications were not invented, for the two cases of the Mayor &c. of Exeter against Stoden (p. 1), and Tayllour against Att Well (p. 6), heard before the King in Council *temp.* Edward 4, both contain them. Their rarity seems to support Hudson's view that since no new charge could be brought in the replication it was a mere formality, 'by reason whereof there is so little regard of the replication as that they are only drawn by clerks, without any regard whether there be any issue joined in the case or not, no counsel being made privy or acquainted therewith; insomuch as if many causes were well looked into when they came to hearing, the parties would be found not to have joined any issue' (Hudson, p. 191). The pleadings subsequent to the answer seem thus to have degenerated into a question of fees, for Hudson tells us that the rejoinder of the defendant was preceded by a warrant issued by the clerk of the Court to the process-maker to make a subpoena for the defendant to rejoin. 'for which warrant he receiveth only two shillings' (ib.). This last subpoena was indorsed 'ad rejungendum replicationi, J. S.' It is not surprising, if this was the course followed in the time of Henry 7, that we only find among these documents five rejoinders of that reign (pp. 61, 67, 79, 113, 234), in addition to the one in Att Well ats Tayllour (p. 14) in the reign of Edward 4. There is no sign of the surrejoinder and rebutter, of which Hudson says that 'of latter times those are wholly out of use by reason the clerks only direct all these pleadings without the advice or subscription of any counsel' (Hudson, p. 192).

f. The pleadings closed, there followed the examination of witnesses. They were taken by commission in the country; but in London it would appear from the case of the Abbot against the Bailiffs of Shrewsbury (p. 193) by the clerk of the Court. When commissioners were nominated, they were 'men of great worth in the county where the fact ariseth and were antiently appointed by the Court' (Hudson, p. 202). At a later date they were agreed upon between the parties (ib.). These documents show that eminent

lawyers were sometimes commissioned, as in the case of Hewyt and the Mayor &c. of Exeter against the Mayor &c. of London (p. 80). But the 'Dedimus Potestatem,' the name given to this commission (ib.) in Carter against the Abbot of Malmesbury (p. 121), is an illustration of Hudson's statement. Among these cases we have a considerable number of interrogatories and depositions of witnesses. These were read to the Court, a proceeding recited in the judgement of the Court of July 8, 1508, in the case of the Abbot *v.* the Bailiffs of Shrewsbury: 'perlecte fuerunt deposiciones & dicta testium productorum tam ex parte abbatis Salopiensis pro parte sua quam ex parte balliuorum burgensium ville Salopie prædicte' (p. 187). The words '& dicta' illustrate Hudson's statement that as witnesses 'may be examined in Court before any commission be awarded for that purpose, so may they also after the commission has concluded' (Hudson, p. 200).¹ The examination of Richard Dicher on February 6, 1504 (p. 184), certainly took place in London, as his answer to the sixth Interrogatory clearly implies, and possibly before the Court. Where evidence was taken by commission, in Hudson's time, at any rate, the accredited, if not the universal, practice seems to have been to take the evidence of each witness apart. 'The place where they (the commissioners) examine ought to be private for that purpose, that parties and witnesses may not hear the several examinations of every witness' (id. p. 204).

g. In his account of the manner in which the Court of Star Chamber delivered its judgements Hudson slurs over a question which in his day was one of acute controversy. His words are: 'The lords proceed to their sentence, which is always delivered in great silence and without any interruption, the inferior beginning, and so in order every man, and the archbishop last before the lord chancellor or the lord keeper, if the treasurer be not the supreme judge at the time' (id. p. 223). Who were the 'lords'? Did they include the King's Justices? Coke (4 Inst. 62) argues that 'it is clear that the two justices in the Star Chamber are judges and have voices, as it hath been resolved² and daily experience teacheth.' It were much to be

¹ Cp. the exemplification of the decree of the Star Chamber on November 19, 1508, in favour of the Warden and Canons of St. Mary's, Oterey, Pat. Rolls, 1 Hen. 8, pt. 2, m. 9, 'testium depositionibus visis auditis lectis & intellectis.'

² One of these resolutions is thus described by Hudson: 'I should speak some thing concerning the question before touched, whether the statute of 3 Hen. 7 gave any power, strength, or confirmation

to this Court, as the Lord St. Alban hath of late published, but contrary to the resolution of the three principal judges given in his presence in Proctor's case . . . where it was resolved that that statute enabled that court no more than it did any other court in Westminster hall, but these lords might determine those matters in any place of England, neither did that statute make those lords sole judges of that court and yet compelled them to call assistants, other-

wished that these resolutions and the grounds of them were in print. There is, however, a case in print which makes directly to the contrary, argued within five years of the statute of 1487. This judgement, after reciting that Act, lays down that it appoints 'nul juge sinon Chancelier, Treasurer ou Privy-Seel ou deux de eux & les autres sont assistants & aidants & nemy Juges. Et issint accord' Touts les Justices' (Y. B. E. T. 8 Hen. 7, f. 13, pl. 7). This was in 1493.

Let us see what light the judgement in the Abbot of Shrewsbury's case here printed throws upon this issue.

4. The pertinent words of the Act 'Pro Camera Stellata' (3 Hen. 7, c. 1 (1487), are 'That the Chaunceller and Tresorer of Englonde for the tyme beyng and Keper of the Kynges pryvye Seall, or too of theym, callyng to hym a Bisshopp and a temporall Lord of the Kynges most Honorable Councell, and the too chyeff Justices of the Kynges Benche and Comyn Place for the tyme beyng or other too Justices in ther absence, upon bill or informacion put to the seid Chaunceller' &c. shall summon the misdoers 'by Writte or Pryvye Seall' and so forth. According to the exemplification of the decree of the Star Chamber dated July 8, 23 Hen. 7 (1508), an exhibit in the Abbot of Shrewsbury's case, which exemplification is printed as document D (p. 187), the Chancellor, William Warham, Archbishop of Canterbury, presided. There also sat Sir Robert (here by mistake called Francis) Rede, who had been Chief Justice of the Common Pleas since October 1506; Thomas Tremale,¹ who was a justice of the King's Bench; Robert Britnell, or Brudenell, who became a judge of the King's Bench on April 28, 1507; the Chief Baron of the Exchequer, Sir William Hody, who had been appointed in 1486; John Kyngsmell, a justice of the Common Pleas since July 2, 1503; John Fysshier, a justice of the same Court since November 3, 1501; and John Buttlar, or

wise their proceedings were erroneous, as it is held in (Y. B.) 8 Hen. 7, 7; but the court subsisteth by ancient prescription' &c. (p. 50). This does not follow the report of Proctor's case in Coke, 'Reports,' pt. xii. f. 118, though it is not inconsistent therewith. In that case, upon an information preferred in the Star Chamber against Sir Stephen Proctor 'for scandal and conspiracy of the Earl of Northampton and the Lord Wootton,' the eight members of the Court were equally divided. The Chief Baron, the two Chief Justices, and a temporal Baron condemned the defendant to fine and imprisonment. The Lord Chancellor, two Bishops, and the Chancellor of the Exchequer acquitted him. The question

whether he ought, upon this divided opinion, to be acquitted or condemned was referred to the two Chief Justices, who held that the Star Chamber was only bound by its own precedents. These being examined to the number of two, *temp. Eliz.*, seemed to shew that the Lord Chancellor's voice was determinant. But in 4 Inst. f. 64 Coke tells us that 'sentence was never given against Sir Stephen Proctor agreeable to the generall rule in other courts.' See further Hudson, p. 31.

¹ It may be added of Tremale that Foss had not been able to trace him as acting in a judicial capacity at a later date than Hilary Term, 1507. 'Lives,' v. 77.

Boteler, a justice of the same Court since April 26, 1508. There was also the Prior of the Order of St. John of Jerusalem, Sir Thomas Docwra, who had been elected to that distinguished office in 1502. According to the exemplification, these formed the Court. It will be noticed, however, that the exemplification appears to rank together as 'capitales Judices' the Chancellor Archbishop and the Chief Justice of the Common Pleas. No authority for the assignment to these two of any such joint priority is derivable from the words of the statute 'Pro Camera Stellata.' The mystery is fortunately solved by a reference to the original decree of the Star Chamber, given in English, of which the exemplification D is a Latin rendering (see p. 188, n. 12). Thence it appears that Sir John Fyneux, at the time that the decree was pronounced Chief Justice of the King's Bench, was present, and it is to him and the Chief Justice of the Common Pleas that the designation 'capitales Judices,' 'chief justices,' really referred. The omission of his name from the exemplification issued on July 10, 1509 (S. P. Dom. Hen. 8, i. 289) must have been purely accidental, for Fyneux was then still Chief Justice, and the words 'capitales judices' were doubtless intended to include him. But the inclusion of the Chief Justice of the King's Bench does not satisfy the requirements of the statute. We note the absence both of the Treasurer of England, Thomas Howard, Earl of Surrey, appointed in 1501, and of the Keeper of the Privy Seal, Richard Foxe, Bishop of Winchester, who had held his office of Keeper since February 24, 1487 (W. Campbell, 'Mat.' ii. 158). Of these one at least should have been present. The following columns shew the variations from the statutory court:—

Statutory Court.	Actual Court.
Abp. William Warham, Chancellor Thomas Howard, Earl of Surrey, Lord Treasurer Bp. Richard Foxe, Lord Privy Seal A Bishop	Abp. William Warham, C.
Sir Thomas Docwra, Prior of St. John	Sir Thos. Docwra, Prior of St. John.
Sir John Fyneux, C.J. of the K.B. Sir Robert Rede, C.J. of the C.P.	Sir John Fyneux, C.J. of K.B. Sir Robert Rede, C.J. of C.P.
or	Thomas Tremale, J. of K.B. Robert Britnell, J. of K.B.
Thomas Tremale, J. Robert Britnell, J.	Sir William Hody, C.B. John Kyngsmell, J. of C.P.
John Fysshier, J. of C.P.	Total number of Court nine.
Total number of Court six or seven.	

The Court comprised all the judges except the puisne Barons of Exchequer (see pp. 188, n. 12, and 199, n. 2). Of the judges we know by the lists of judges who sat in the Court of Requests¹ that Rede and Kyngesmeell were members of the Council. It is possible that they all were, though this was not a statutory necessity. The journals of the House of Lords shew that the Prior of St. John sat as a temporal peer. He had been therefore summoned according to the statute. The decree and the subsequent references to it all agree in distinguishing the judges from the councillors, and representing them merely as 'advisers.' For example, in the Abbot's letter of 1509 (J, p. 198) it is set forth that the case had been decided 'by your good lordschip (the Chancellor) & oder lordes of the seid late kinges moost honorabill counsell with & by the advises of all the Jugges then beyng of Englonde and the cheff baron.' The same statement is made in the Abbot's bill of the same date (p. 190). These statements are of importance. The exemplification printed on p. 187 recites the presence only of the Chancellor, the Prior of St. John's of Jerusalem, and the judges. But 'dominus cancellarius & ceteri consiliarii' are represented by it as giving the judgement on the advice of the judges. Except for the Abbot's letter it might have been supposed that the 'ceteri consiliarii' was merely common form; but the letter, as also the bill of 1509, is confirmed by the original judgement of which the exemplification is a translation.² It might, of course, have been that the 'ceteri consiliarii' were the Treasurer and the Lord Keeper; but apart from the presumption that their names would not have been omitted even if a cursory form of recital had been used, we actually have the composition of the Court set out. The original judgement runs: 'it is ordered and decreid by the same counsell by suche aduyse and consent of all the Kynges jugges' &c. (p. 188, n. 12). The Star Chamber is not there mentioned. The inference is that, in the opinion of the Chancellor and of the Court of Star Chamber of 1508, the judgement of 1493 was not law, but, as Coke phrases it, 'a sudden opinion,' so far as regards the proposition that no other members of the Council were judges but the Chancellor, the Treasurer, and the Privy Seal. What, then, of the King's Justices summoned under that Act? It is quite clear from the wording both

¹ Selden Soc. 1898, p. cii, fol.

² In Pat. Rolls, 1 Hen. 8, pt. 2, m. 9, is an exemplification of a judgement delivered on November 19, 1508, 'in Camera Stellata' in favour of the Warden and Canons of St. Mary, Oterey, Devon. The exemplifica-

tion runs: 'habitaque super inde matura & diligenti deliberacione per Reuerendissimum in Christo patrem Willelmum Cantuariensem Archiepiscopum Cancellarium Anglie & dictum Consilium.'

of the judgement and of the exemplification, as well as in the opinion of the draughtsman of the Abbot's second bill (p. 189), and of the Abbot himself, who was a lord of Parliament (p. 183), that they were advisers and not judges of the Court, and that in this respect the decision of 1493 was accepted as sound.¹

Who were the 'ceteri consilarii' who, according to its common form, sat in the Court of Star Chamber? There is room for two of them, 'a Bisshopp and a temporall Lord of the Kynges most Honorable Councell,' in the statute of 1487. Miss Scofield has collected instances from the MSS. in the British Museum shewing that the administrative Council was in the habit of using the Star Chamber for its deliberations upon political affairs. In those instances the attendance was numerous, and they undoubtedly entered the minutes of their proceedings in the 'Liber Intrationum' used by the judicial body. But the examples collected by Miss Scofield do not establish that the attendance was large when the Court was sitting on purely legal business. Even the three orders passed on June 17 8 Hen. 8 (1516), Oct. 14 9 Hen. 8 (1517), and Oct. 19 21 Hen. 8 (1529), at which fourteen, thirty-four, and thirty persons were present respectively, may very well have been orders made by the Council sitting in the Star Chamber and not by the judicial body at all,² though in the time of Elizabeth they were designated Orders of the Court of Star Chamber. As a matter of fact, this was justified by the common use by both bodies, if they may be distinguished, of the style 'the King's Council in the Star Chamber.'³

Nevertheless we have some contemporary evidence that the 'ceteri consilarii' of the King's Council in the Star Chamber, assembled for judicial purposes only, at times exceeded the whole number of the Court as defined by the Act of 1487. The Elizabethan compiler of the notes of the judges in the Court during the reign of Henry 8 says, speaking of 1527, two years before Wolsey's fall: 'In these times the Cardinall of York was Chancellor and legate, and the presence was alwayes grete that sate with him in the Star Chamber.'⁴ The mention of the fact

¹ In the case mentioned in the preceding note the recital of the *Inspeximus* is that the judgement was delivered *auctoritate eiusdem Consilii cum assensu legis peritorum utriusque partis*, which looks as if, in the case of a judgement by consent, the King's Justices took no part.

² Lansd. MS. 1, art. 44. See C. L. Scofield, 'Study of the Court of Star Chamber' (Chicago, 1900), p. 30.

³ Miss Scofield points out a passage in the Paston Letters, of the date 1494, which

indicates that the public appreciated the difference between the Council sitting in the Star Chamber as a Council of State and as a judicial body under the same designation. Sir T. Tyng writes to Sir John Paston: 'Sir, ther hath be so gret counsell fer the Kynges maters that my Lord chawnsler kept not the Star Chamber thys viii. days, but one day at London, on Sent Lenardes Day.' Paston Letters, iii. 385; Scof. p. 27.

⁴ Lansd. M.S. 160, art. 92; Scofield, p. 31.

that the Cardinal was Chancellor suggests strongly that the sources from which the writer drew pointed to judicial sittings. Hudson, who searched the original records, writing in the reign of Charles I, says: 'The number in the reigns of Hen. 7 and Hen. 8 have been well near to forty; at some one time thirty.' Undoubtedly he must be taken as speaking of the judicial court, for he adds: 'In the reign of queen Elizabeth oftentimes (as many), but now much lessened since the barons and earls, not being privy councillors, have forborne their attendance.'¹

Who, then, were the 'ceteri consiliarii' who thronged the judgment-seat of this tribunal, and what were their qualifications? Upon this we have one witness of the sixteenth and four of the seventeenth century. It may be premised that, according to Fortescue, peers were 'consiliarii nati.'² It was probably with this doctrine in his mind that Sir Thomas Smith, writing in 1565, says: 'The judges of this Court are the Lord Chancellor, the Lord Treasurer, all of the Queen's Majesty's Counsell, the Barons of this land.' These last he elsewhere designates as 'other Lords and Barons which be not of the privy Counsell and be in the town.'³ This statement Cowel, writing about half a century later, glosses as follows:—'It appeareth both by Sir Thomas Smith . . . and by experience also that at this day the whole number of the Prince's most honourable Privy Councill and such other Barons spiritual or temporal as be called thither by the Prince shall have place in this Court.'⁴ This version introduces a summons as an antecedent condition, as to which Smith is silent.⁵ But Wolsey's love of pomp and the thronged attendance in his chancellorship⁶ point to the practice of the issue of summons in his day.

Next to Sir Thomas Smith in order of date comes William Mill, clerk of the Court in the reign of Elizabeth and a searcher of the original records. He writes: 'There is a fee appointed to the clerke of the Councell to bee taken of every one admitted according to their severall degrees, vizt. for the admittance of euery Arch Bishop and Duke to the Councell xx s. of euery Bisshop and Earle xvij s. iiij d. of euery viscount and Lord x s. of euery knight and other persons vis. viij d. And from hence doe I gather that to bee true which my father being a man of longe service in that place hath often told mee that

¹ 'Of the Court of Star Chamber,' p. 36.

² 'Governance of England' (ed. C. Plummer, 1885), p. 147.

³ 'Commonwealth of England,' iii. 5.

⁴ Interpreter (ed. 1637), sub 'Starre-

chamber.'

⁵ A specimen summons to the Bishop of Winchester in 1593 is given by W. Mill in B. M. Hargr. MS. 216, f. 176, d.

⁶ G. Cavendish, 'Life of Wolsey' (ed. 1825), i. 42.

noe man should sitt in the Courte but if hee were sworne of the Councell And that the Clerke of the Councell should goe vnto him and declare vnto him that hee ought not to sitt there but if hee were sworne For to that end as I coniecture both the entrie and the Fee were appointed that the Clerkes might take notice of the person soe admitted and sworne.’¹

The third witness is Coke, who, after enumerating among the judges of the Court the great officers of State, the privy councillors, and the judges, adds: ‘and such other Lords of Parliament as the King shall name.’² Elsewhere he adds: ‘The Lords of Parliament are properly De Magno Concilio regis, but neither these, being not of the King’s Privy Councell, nor any of the rest of the Judges and Barons of the Exchequer, are standing judges of this Court.’³ This statement seems to shew that the persons summoned were summoned and sworn ad hoc, where they were not members of the Privy Council, being, as Sir Thomas Smith phrases it, ‘in the town.’ According to Coke, ‘every privy counsellor hath a voice and place in the Court of Star Chamber.’⁴

So far the evidence seems to be consistent and probable as to the methods by which the attendance of ‘*ceteri consiliarii*’ was at times secured. But the laborious Hudson, first a practitioner in and afterwards clerk of the Court, writing in the time of Charles I., is clearly of opinion that this practice was a usurpation on the part of the prerogative and unconstitutional. From him we learn (p. 36) that Lord Chancellor Ellesmere, after the example of Wolsey, was in the habit of taking his seat in the Star Chamber attended by a number of the nobility. ‘The Court,’ he tells us, ‘is not alone replenished with noble dukes, marquises, earls, and barons, which surely ought to be frequented with great presence of them, but also with reverend archbishops and prelates, grave counsellors of state, just and learned judges,’ &c. . . . ‘And the Court was in the reigns of Hen. 7 and Hen. 8 most commonly frequented by seven or eight bishops and prelates every sitting day; in which times let me without offence observe that the fines touched not to the destruction of the offender’s estate

¹ B. M. Hargr. MS. 216, art. 18, f. 103, dors.

² 4 Inst. c. 5.

³ 4 Inst. c. 5, f. 65. In 4 Inst. f. 62 Coke sets out the Act of 1487 with an interpolation of some legal moment, which shows how little he is to be trusted as an authority for facts anterior to his own experience. The Act runs that one of the three officials named ‘callyng to hym

a Bisshopp or a temporall Lord of the Kynges most Honorable Councell,’ &c. This Coke reproduces as ‘of the King’s most honourable Privy Councell.’ Now we know from Hudson that a bill praying process for the defendant to appear before the Privy Council was held demurrable in the Court of Star Chamber. ‘Of the Court of Star Chamber,’ p. 24.

⁴ 4 Inst. c. 2, f. 54.

and utter ruin of him and his posterity, as now they do, but to his correction, the Clergy's song being of mercy.'¹ This sarcasm, not improbably levelled at the cruelties of Laud, discloses that the attendant peers took part in the decisions of the Court either as advisers or judges. In Hudson's opinion it is clear that they were judges before the 30 Eliz., and the passage which states this is sufficiently important to merit transcription. 'Now that every peer of the realm which is a lord of the parliament is *de magno concilio*, it appeareth partly by the writ by which they are called to the dignity, wherein is contained that the king desireth their conference *circa ardua negotia regni concilium suum impensare*, but especially for that they have used to sit and give their judgments in this high court as judges in the same, and that most usually and commonly until about the 30 Eliz. and myself have heard a great lord, yet living, claim his right of sitting there in open court; to whom the lord chancellor Ellesmere gave this answer—that he knew not whether it were his master's pleasure that that question should be determined that day; but some other of the presence maintained stiffly the baron's right; which seemeth to be agreeable with justice; for it is undoubted that Henry earl of Lincoln and the lord Grey, and divers others which were not of the council of state were present and sat and gave judgment when Mr. Davison was sentenced. And how they were competent judges unsworn; if not by their native right, I cannot understand; for surely the calling of them in that case was not made legitimate by any act of parliament; neither without their right were they more apt to be judges than any other inferior person in the kingdom.'²

The variety of meanings attached to the word '*concilium*' and the obscurity attendant upon the evolution of the Court would not unnaturally give rise to such claims as Hudson affirms that he witnessed. His own account shews us that they were disallowed. His remarks upon the Davison case are inconclusive. Since about 1588, as he himself tells us, the practice had changed, and in his day none but privy councillors sat. It is to be presumed that in Davison's case the practice of the Court as stated by Mill was observed, and that the lords in question, though '*not of the council of state*,' were duly summoned and sworn.

But the members of the Court of the Star Chamber by no means consisted exclusively of spiritual and temporal peers. The volume of '*Select Cases in the Court of Requests*,' published by the Selden

¹ '*Of the Court of Star Chamber*,' pp. 25, 28, 35, 36.

² *Ib.* p. 24.

Society in 1898, contains a list in Sir Julius Cæsar's handwriting verified by a transcript of a certificate which he affirms to have been received by him from William Mill. The list is intituled 'The names of such as have sat in the Star Chamber since the 9 yere of K. H. the 7. & vntill the 4 and 5 of P. & Mary.'¹ Under 9 Hen. 7 (Aug. 22, 1493–Aug. 21, 1494) appear the names of Sir Reginald Bray, Chancellor of the Duchy of Lancaster, Sir Richard Guilford, Sir Thomas Lovel, Treasurer of the Household, who were probably all privy councillors, and also of David Williams, Master of the Rolls, Dr. Aynsworth, Prebendary of Lincoln, and Geoffrey Simeon, Dean of the Chapel Royal. Under 10 Hen. 7 are four names, Dr. Mayo, President of Magdalen College, Oxford, a clerk in Orders, Dr. Hatton, Fellow of King's College, Cambridge, and LL.D., John Morgan, LL.D., Dean of St. George's, Windsor, and Richard Fitzjames, Warden of Merton College, Oxford.² The names given are not the names of all the members of the Court, but presumably of those who first sat in the years under which they are respectively ranged, which confirms Mill's statement as to the practice of swearing in the members of the Court. It would appear from a passage of Mill that, though not of the Privy Council, 'they were at the least sworne to bee Councillors of that place or at large as it was there termed, which use Continued alsoe in King Henry the viij. tyme.'³

So far, then, the conclusion appears to favour the view that down to 30 Eliz. the judges of the Court of Star Chamber were the members of the King's Council, i.e. the Concilium Ordinarium,⁴ those who were not also privy councillors being, as we learn from Mill, Cowel, and Coke, summoned and sworn. But Coke argues from the wording of the Act of 1487 that 'if the justices should be but assistants and no judges in the Star Chamber, for that they are to be called &c., then and for the same reason should neither lord spirituall nor temporall nor other of the privy counsell be judges nor have voices in the Star Chamber.'⁵ This alternative was accepted by some of the controversialists of the day, and is, of course, the judgement of 1493. That judgement was cited arguendo in the case of the Earl of Leicester v. Sir Christopher

¹ 'Select Cases in the Court of Requests,' p. cviii, taken from B. M. Lansd. MS. 125, fo. 3.

² The last two are entered as 'armigeri' by the blunder of a transcriber, who has misread 'cler.'

³ Hargr. MS. 216, p. 326; Scofield, p.

33, n. 2.

⁴ Lord Burghley, Lord Treasurer, is reported by W. Mill, clerk of the Court, as saying on Nov. 7, 31 Eliz. (1589), that the Court of Star Chamber 'is the greate Councell of the Kinge.' B. M. MS. Hargr. 216, p. 173, d.

⁵ 4 Inst. 62.

Heydon, heard in the Queen's Bench in E. T. 13 Eliz. (1571).¹ In 1594 John Hawarde, the reporter of cases in the Star Chamber,² mentions a legal discussion at 'dinner at Bilbye's, the Sub-Chancellor of the Exchequer. By Blunt³ it is apparent that the Lord Keeper can give sentence by himself, notwithstanding it be against the whole Court, for the Lord Keeper,⁴ the Lord Treasurer, and the Lord Privy Seal are the sole judges in this Court, and the other barons and lords are but assistants.' Upon this Hawarde comments 'which is not the law, as I believe, for it proceeds by the majority of voices, not by experience.' That Hawarde's statement of the practice is correct we have Hudson's testimony. 'The greater part of the judgments of the presence maketh the sentence, but if they be equal, the voice of the supreme judge maketh the sentence, as I have before related to be judged in the Earl of Northampton's case,' &c.⁵ But both Hawarde and his interlocutor appear to have forgotten the tail of the judgement of 1493, that the three there declared to be judges were bound by the advice of the King's justices. Richard Crompton, whose book intituled '*L'Autoritie et Jurisdiction des Courts de la Maiestie de la Roygne*' was published in 1594, accepts the judgement of 1493.⁶

Nevertheless, the contention that the three officials named in the Act of 1487 were the sole judges seems to prove too much, for Hudson, who as clerk of the Court had access to records now lost or destroyed, tells us that 'about the tenth, eleventh, and twelfth years of that king (Henry 7) these cases were more often heard before the President of the Council than before the Chancellor, Treasurer, or Privy Seal; whereby it is most manifest, by the subsequent as by the precedent practice, that the Court then sat not by virtue of that statute, but sat as they antiently had done, and by as antient, if not more antient authority than any Court in Westminster hall.'⁷ Inasmuch as the President of the Council was not added till 1529,⁸

¹ E. Plowden, Reports (ed. 1779), p. 393.

² '*Les Reportes del Cases in Camera Stellata*,' ed. by W. P. Baildon (privately printed), 1894, p. 4.

³ This name does not occur in Foss's Lists of Counsel between 1558 and 1603. '*Lives*' &c., v. 521; vi. 35.

⁴ The statute 5 Eliz. c. 18 (1563), 'An Acte declaring the auctoritee of the Lord Keeper of the Great Seale of England and the Lord Chancellour to bee one,' affirms itself to be declaratory of the common law.

⁵ '*Of the Court of Star Chamber*,' p. 223.

See p. xxxiv, n. 2, supra.

⁶ Ed. 1637, p. 29. This is reproduced without question or comment in the English versions of this part of his work, '*Star Chamber Cases*,' ed. 1630, p. 13, and ed. 1641, p. 13.

⁷ '*Of the Court of Star Chamber*,' p. 16.

⁸ The President of the King's Council was not added till the 21 Hen. 8, c. 20 (1529), 'An Acte that the presidente of the Kynges Counsaile shalbe associate with the Chauncellor and Treasourer of Englonde and the Keper of the Kinges Privie Seale.' This statute, after reciting the statute 3 Hen. 7, c. 1 (1487), to which it

it is an inevitable conclusion from these premises that the Court sat without a judge at all. Further, if the inference from the terms of the judgement and exemplification in the Abbot of Shrewsbury's case be justified, that the only one of the three officials mentioned in the statute of 1487 then sitting and delivering judgement was the Chancellor, the judgement could not have run, as it did, in the name of that judge 'and other the lordes of the Kyngys moost honorable counsell.' Hudson carries the case a step further. 'Sometimes, when neither the Treasurer, President, Chancellor nor Privy Seal were present, other lords of the Council sat for the determining of causes, which proveth that they are all judges of this court' (p. 23).

If it be permissible to infer from the practice of the Star Chamber in the reigns of Henry 7 and Henry 8 the theory held by it as to the

does not give any title, enacts 'that from hensforth the Chaunceller Tresorer of England and the presedent of the Kynges moost honourable Councell attendyng upon his mooste honorable person for the tyme beyng, and the keper of the Kynges Pryve Seale or two of them, callynge unto them one Byssshop and one Temporall Lorde of the Kynges moost honorable Councell and the two Chefe Justices of the Kynges Benche and the Comon Place for the tyme beyng, or other two of the Kynges Justices in their absence, upon any Bill or Informacyon hereafter to be put in (to) the Chaunceller of England, Treasurer, Presydent of the Kynges seyd moost honorable Councell or Keper of the Kynges Pryve Seale^a for the tyme beyng, for any misbehavyng before rehersed, from hensforth have full power and auctorite to call before them by Wrytt of Pryve Seale suche mysdoers and them and other by their discession by whome the truthe may be knowen to examyn and suche as they shall fynde defectyve to punyssh them after their demerytes after the forme and effecte of the said former Estatute and of all other Estatutes therof tofore made and nat

repelled nor expyred, in lyke maner and forme as they shulde and ought to be punysshed yf they were therof convycted after the due ordre in the Kynges Laws.' The points in which this Act differs from that of 1487 are as follows: in the first place, its principal object, as its title shows, was to add the Lord President to the officials named as judges. Secondly, by the earlier Act, the information was to be put to the Chancellor; by the later Act there is no specific instruction on the point. The papers here published show that in the time of Henry 7 the usage was undetermined. With the tendency to exalt the prerogative the practice crystallised into the laying of informations to the King, which, as has been seen, Coke mentions as in his time the regular course. Thirdly, in the Act of 1529, the officials named are authorised to call offenders before them 'by Wrytt of Pryve Seale.'^b The words of the Act of 1487 are 'by Wrytte, or Pryvye seall.' If the word 'of' in the later Act is correct, it suggests the disuse of Letters Missive under the Privy Seal for the more summary form of a Writ.

^a The author of the article 'Camera Stellata' is named by Hearne as (Francis Tate, but Miss Scofield in the Appendix to her book adduces reasons for identifying him with Lambard (p. 81), and the treatise as representative of views afterwards discarded in the 'Archeion.' This author reads into the later statute an exclusive appointment as judges of the four officials named, a gloss which a comparison of the texts does not appear to me to sustain. He also draws another distinction between the two statutes as follows: 'Whereas the former statute willeth to have the said offenders punished after the form of the statute hereof to be made, this other statute (21 Hen. 8, c. 20) referreth the punishment to

the form of that and of all statutes before that time made and being in force.' But this argument depends upon a misreading of the Act. The words of the Act 'Pro Camera Stellata' in the Statutes of the Realm are 'to punyssh theym after their demerites after the forme and effecte of Statutes therof made,' or in the contemporary French version, 'joust la fourme & effecte dez statutz ent faitz.'

^b The text of 21 Hen. 8, c. 20, in the 'Statutes of the Realm' is printed 'by Wrytt (of) Pryve Seale,' and the note 8 ('or' printed copies) attached to the bracketed word. I interpret this to mean that the MS. text gives the word 'of,' and that the bracket is merely added to call attention to the word.

relations to its composition as a tribunal of the statute 'Pro Camera Stellata,' it would seem that its interpretation of that Act was somewhat as follows, that the Act gave a statutory legality to the issue of writs of Privy Seal by the Chancellor, Treasurer, and Privy Seal, or two of them, though it did not confer upon them, except in the matter of interrogatories, any judicial power which they did not already enjoy in virtue of their office of members of the King's Council. That in other respects the former practice of calling in the King's justices as legal advisers was maintained, but that the Act, while giving its sanction to and otherwise directing this course, did not invest any person not being a member of the Council with the right of pronouncing judgement in the name of the Court of the King's Council sitting in the Star Chamber, while such persons as were members of the Council enjoyed that right by prescription independently of the Act.¹

The difficulty still remains of the contradiction between Coke's assertion that it had been resolved that the King's justices were judges of the Court and the form of the Court's judgements. Here it may be permissible to hazard a preliminary hypothesis which subsequent investigation may correct. It is agreed on all hands that, as the forms in use shew, the Court of the Star Chamber was, in some way or other, affiliated to the King's Council. This fact naturally suggests that the procedure of the Council before the statute of 1487 may throw light on these obscurities. A case is printed in Sir H. Nicolas's 'Proceedings and Ordinances of the Privy Council of England,' iii. 313, under the date Nov. 4, 7 Hen. 6 (1428). The record sets forth that 'on the fourth day of November in the seventh year Cheny, Babyngton, Juyn and all the rest of the justices were separately questioned before the King's Council in the Star Chamber concerning the giving of advice' as to the manner in which a certain offender against the shipping laws should be dealt with. 'They said' that for reasons which they gave it was desirable to pursue a certain course, viz. to allow the delinquent, who had acknowledged his offence, to pay a fine. 'To which advice the lords yielded and ordered [mandarunt] the Treasurer' accordingly. The three justices here mentioned were respectively Chief Justice of the King's Bench, Chief Justice of the Common Pleas, and Chief Baron of the Exchequer. Here it is clear, as in the Abbot of Shrewsbury's case, that while the advice to the lords was given by the justices upon request, the mandamus issued from the lords of the Council. The same form was

¹ This seems to be the view of Lambard. 'Archeion' (1635), pp. 166-7.

followed in the case of petitions addressed by the Commons to the King. In 1437 the Commons complained that no action had been taken upon them and no redress granted. They pray, therefore, 'that the said petitions shall be delivered to the lords of your most wise Council the which, there being called to them the justices and other persons learned in your law, if need be, may have power by authority of the said Parliament . . . to hear and determine the said petitions ; and that these thus determined, with the advice and assent aforesaid, shall be enacted, enrolled and put on record in the roll of your said Parliament.'¹ Here the function of the justices is less clearly set out.

In the fifth year of Henry 6 (Sept. 1, 1426–August 31, 1427) a series of articles was drawn up for the conduct of the business of the Council.² Of these the fourteenth runs as follows: 'Item; for asmuch as it is lykly that many matieres shalle be treted afore the Counsaile, the which toucheth the Kynges Prerogatyve and Freehold on that oo(n) partie, and other of his Subgittes on that other; in the which matiers the Counsaill is not lerned to kepe the Kynges right and the parties both withouten th'advis of the Kinges Justices, which been lerned both in his Prerogatives and in his Common Lawe; that in all suche matieres, his juges be called thereto, and their advis, with their names also, to be entred of Recorde, what and howe thei determyne and advyse therynne.'³ In the sense that the advice of the King's justices did not bind the King's Council, sitting as a Court of Judicature, it might be said that they were not judges of the Court, and, as has been seen, its judgement was not delivered as theirs. But, assuming these ordinances to have been regarded as authoritative, the proviso that the advice of the justices should be 'entred of Recorde' made, it would seem, that advice indispensable to the validity of the judgements. It is true that the ordinance only contemplates the case where the King and his subjects appear to be involved in a conflict of rights. It may be that the doctrine affirmed by Hudson (p. 130), that 'every suit in this Court is the King's suit,' was invented by the King's justices in order to bring them within this ordinance and elevate their advice, in all cases, into matter of record. Upon this basis it is easy to see how the argument of Elizabethan controversialists may have been constructed. 'A record' is defined by Coke as a monument or act judicial before a judge or judges in a court of record entred in parchment in the right roll.'⁴ A judgement of the King's Council might be contended to be such a

¹ Rot. Parl. iv. 506.

² Rot. Parl. v. 407, b.

³ Rot. Parl. v. 408, b.

⁴ 3 Inst. 71.

record,¹ and the King's justices before whom the act judicial was done and entered judges of the Court so doing and entering it.²

What, then, is the meaning of the provision in the statute of 1487 for 'calling to hym a Bisshopp and a temporall Lord of the Kynges most Honorable Councell'? If we divest our minds of the hyperbole of the Jacobean writers to whom the Star Chamber, in the plenitude of its arrogated powers, appeared 'the most honourable court (our parliament excepted) there is in the Christian world,'³ it will be apparent that the privilege of trying cases of misdemeanour, without a salary for so doing, was onerous and uninviting. If this be so, the statutory 'call' imposed a duty which members of the Council were not solicitous to assume. It was perhaps not until the Star Chamber became the weapon of a political party that desire was felt to take active part in its proceedings. The composition of the Court as contemplated by the Act of 1487 was not a novelty. In the Close Roll of 29 Ed. 4, m. 26, d, is a record of the Council sitting in the Star Chamber for the transaction of legal business on March 7, 1355. The members present are the Archbishop of York, Chancellor, the Lord Treasurer, who was the Bishop of Winchester, the King's Chamberlain, the Keeper of the Privy Seal, John Beauchamp, a baron, and others of the Council. In 1367 the Chancellor, the Treasurer, the

¹ By the decision of 1493 it was held that the three officials who 'called' the Court of the Star Chamber were bound to so summon the judges and to give judgement according to their advice. 'Mes les Justices ten(aient) in le premier cas [i.e. the case of the Act 'Pro Camera Stellata'] qe il fuit erreur si le Chancelier, Treasurer &c. nappelle les autres & firent par lour avisement par cause qe le Statut issint ceo limite' &c. Y. B. E. T. 8 Hen. 7, pl. 7, f. 13. See as to this Plowden, 'Reports' (1779), p. 393, and Coke, 4 Inst. f. 62, and cp. p. xxxiv, n. 2, supra. In the case of Daniel O'Connell's appeal to the House of Lords, in which judgement was given on Sept. 4, 1844, the opinion of the judges was asked for, but not followed. Lord Brougham in his judgement said: 'We do not refer the question to their decision. . . . We take their answers not as our rule, or even as our guide, perhaps, but certainly as entitled to our greatest attention' ('State Trials,' N.S., v. 846 [1893]). Yet Brougham was in the minority which concurred with the majority of the judges. The position of the judges in the House of Lords and in the Star Chamber is, as the above shews, by no means the same.

² It is doubtful what authority the

entry of the foregoing proviso that the judgements of the Council should be entered of record had as a legal basis for this argument. The maxim of Glanville was 'Nulla curia recordum habet generaliter præter curiam domini Regis' (viii. 9, ed. 1604); but he adds: 'Item recordum potest habere quilibet curia ex beneficio principis,' although he then seems to limit the grant to an entry on the roll of the King's Court. According to Britton, the sheriff when sitting by virtue of the King's writ had the power of record as a King's justiciary (Britton, i. xx. viii. 2. Ed. F. M. Nichols, 1865, i. 136). Qu. whether the direction of the King in Council, above quoted, constituted the Council as a court of justice a court of record. Coke's test of a court of record is that a writ of error lies against it, on which account he denies that the Court of Chancery in the exercise of its equitable jurisdiction is a court of record (3 Inst. 71). Hudson seems disposed to contest the denial of the Star Chamber to be a court of record, though he rather evades the question. 'Of the Court of Star Chamber,' pp. 5-7.

³ E. Coke, 4 Inst. 65.

Justices, and other discreet (sages) personages hear a suit in the Star Chamber.¹ In the case of *Straunge v. Kynaston*, heard by the Council in 1467, the members present were the Chancellor, who was Robert Stillington, Bishop of Bath and Wells, the Lord Treasurer (Earl Ryvers), Thomas Rotherham, Keeper of the Privy Seal, the Prior of St. John of Jerusalem, a temporal peer, the Lords Dudley and Wenlok, Thomas Kent, LL.D., a former clerk of the Council, three knights and two other commoners, besides Richard Langport, the clerk.²

The contention of Hallam is that the statute 21 Hen. 8, c. 20, which added the President of the Council to the judges of the Court, is 'a decisive proof that it (the statutory Court of the Star Chamber) still existed as a tribunal perfectly distinct from the Council itself.'³ But the recorded constitution of the Court in the Abbot of Shrewsbury's case, which effects a breach in this conclusion, does not stand alone. In the 'Liber Intrationum,' or Minute-book of the King's Council, among other entries of business assigned by the Act 'Pro Camera Stellata' to the statutory Court of the Star Chamber is one as follows :—

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'Coram Canc. Domino Dynham Thes. Husie & Brian principal. Judices⁴ et principal. Baro. Aylmer Hunter et Picroste bound to the peace and enioyned that they were noe mans Liuerie neither serue anie man but the Kinge and my Lord prince upon paine of xl. li.'⁵

The wearing of liveries is not, it is true, an offence under the statute of 1487,⁶ which was not aimed at minor offenders; but the giving of liveries was such. Among the mischiefs struck at, it played so large a part in the public eye that, as the latest historian of the Court has pointed out, the title prefixed by Caxton, its first printer, to the statute subsequently intituled in the Rolls of Parliament 'Pro Camera Stellata,' was 'Yeuynge of lyuerey &c.' In the absence of illustrative evidence one way or the other, it might be inferred that

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40s. on the taker, and 8 Ed. 4, c. 2 (1468), confirming and amplifying the earlier statute. But the Courts prescribed in both statutes in which the penalties were to be sued were the Common Law Courts and certain local Courts, not the Council. It may be added that the case is ten years before the 19 Hen. 7, c. 14, 'De Retentionibus illicitis' (1504), made the taking of a livery a statutory offence triable by the Star Chamber—again an example of legalising existing practice.

the offence of wearing liveries not being within the jurisdiction of the statutory Court, the defendants had been summoned to appear before a committee of the Council acting, not under the statute, but in reliance upon its traditional jurisdiction over offences likely to disturb the public peace. But the fact that the giving of liveries was an offence assigned to the statutory Court and the great liberality of interpretation, upon whatever hypothesis it may have been based, undoubtedly placed upon its jurisdiction as conferred by the Act, compels the belief that the Court issuing this injunction in the year 1494 conceived itself to be acting under the statute of 1487. Nevertheless, the composition of the Court, by its omission of 'a Bisshopp and a temporall Lord of the Kynges most Honorable Councell,' neglects to satisfy the statute. It is less conclusive than the Abbot of Shrewsbury's case because of the legal difficulty as to the jurisdiction of the Court with regard to this particular offence. But it points in the same direction, and the united forces of the two, fortified by Hudson's statements, shatter the position taken up by Hallam that during the reign of Henry 7 and, at least, a portion of that of Henry 8 there existed, distinct from the Council, a Court of a uniform statutory composition. It may be added that there is other authority for stating that in the latter part of the reign of Henry 8 'one Privy Councillor sate in the Court alone; sometimes there were two, and very seldom more.'¹ It may be that this is only true of sittings for the purpose of dealing, after the manner of a judge in chambers, with interlocutory applications. Yet the language of Hudson, who, both as a lawyer and clerk of the Court, was presumably precise, seems to exclude this solution. 'It is fit that I leave it charged that the Court, after the making of that statute' (i.e. the Act 'Pro Camera Stellata'), 'did usually determine causes when neither treasurer, chancellor nor privy seal were present; but sometimes the president of the council alone, and sometimes assisted by others of the council, above forty times in the 12 and 13 of Hen. 7. And sometimes, when neither the treasurer, president, chancellor, nor privy seal were present, other lords of the Council sat for the determining causes.'²

The conclusion is that the Act of 1529 recognised the Act of 1487, so far as regards the composition of the Court, as a counsel of perfection rather than as realised by actual practice, and desiderated rather than enforced it. The inference from its

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language upon which Hallam insists as 'a decisive proof' of the existence of 'the Court of Star Chamber' as a tribunal perfectly distinct from the Council itself breaks down upon an examination of its records and practice. It will be objected that it is not the function of statutes to adumbrate counsels of perfection, and Coke himself was conscious of the difficulty. After descanting upon the first conclusion to be drawn from the two statutes of 1487 and 1529—that this was not a new Court—he continues: 'The second conclusion is that the Act of 3 Hen. 7 being in the affirmative is not in some things pursued . . . and it is a good rule, that where the Act of Hen. 7 is not pursued, there (if there be many judiciall presidents in another sort) they must have warrant from the ancient Court; and yet it is good (as much as may be) to pursue the Act, there being no greater assurance of jurisdiction than an Act of parliament.'¹

The explanation of Coke that the non-observance of the Act of Hen. 7 was to be justified on the ground that it was 'in the affirmative' is not easy to follow. If it means that its tenour was not prohibitory, the observation is lacking in point, for it might be predicated of enabling Acts generally. It would seem rather to signify that the Act, being but an affirmation of existing practice, implicitly sanctioned the continuance of those variations from that practice which had from time to time occurred. Yet this is hardly a legal justification for the infraction of what appears to be, on the face of it, a positive and indeed exclusive constitution of the Court. Nevertheless, no trace appears throughout these papers of any plea to the jurisdiction of the Court on the ground that its composition did not conform to the statute. Hudson's researches into the Order books and decrees led him to single out the tenth, eleventh, and twelfth years of Henry 7 as those in which the statute of 1487 was in this respect conspicuously disregarded. In this volume are six answers belonging to this period, viz. between Michaelmas Term, 1494, and the end of Trinity Term, 1497. Upon this particular point the jurisdiction of the Court was unquestioned.

There are among the documents comprised in this volume a few examples which disclose the minds of contemporary lawyers upon the nature of the Court, and incidentally help towards a solution of this

¹ 4 Inst. 62. He adds as a case in point that 'Sir Christopher Wray, Chief Justice of England for a time was made lord privy seal to sit in the Star Chamber ne curia deficeret in justitia exhibenda.' This was evidently on the assumption that,

as was doubtless the practice in Elizabeth's time, the Lord Privy Seal always sat, which we know not to have been the case earlier, though the writs were under Privy Seal.

problem. If we may assume that the papers collected together in the Record Office as belonging to the Court of Star Chamber are what they are represented to be, and were originally collected through the diligence of successive clerks of the Court, as Hudson states, the certificate of Sir Richard Dalabere and other justices of the peace for the county of Hereford, printed on p. 234, supports the theory of the identity of the Court of Star Chamber with the Council sitting judicially. The justices of the peace cite as the ground of their proceeding the Act 13 Hen. 4, c. 7 (1411). They give a substantially correct version of the French text, which is to the effect that if the justices of the peace fail to ascertain the circumstances of any riot that has taken place within their county and to punish the offenders, ‘adonques deinz un moys lors prochein ensuiant certifiant les ditz Justices, trois ou deux de eux, & le Viscont ou Southviscont suisditz devaunt le Roy & son Conseil tout le fait & les circonstances dicell, quell certificat soit dautiel force come le presentement de xii.: sur quel certificat soient les ditz trespasseurs & meffaisours mys a responce & ceux qi seront trovez coupables soient puniz solonc la discrecion du Roy & de son dit Consail.’ In accordance with these instructions, three justices of the peace for Herefordshire and the sheriff of the county in 1506 returned a formal certificate of a riot in the city of Hereford upon which they had charged a jury who refused to make a presentment. The indorsement of the certificate shews that it was delivered to the Chancellor, who was the presiding judge of the Court of the Star Chamber. It is addressed: ‘To the Kynge and his Councelle,’ a style, as we know, used by and of the Star Chamber. But the Chancellor is not mentioned in the Act of 1411. Presumably, therefore, the official to take cognisance of the affair in the absence of the King would be the President of the Council. In 1499–1500 this was Richard Fitzjames, Bishop of Rochester,¹ and perhaps also in 1506, in which year (August 2) he was promoted from Chichester to London, having been in 1503 translated from Rochester to Chichester.² That Abp. Warham, the Chancellor, should have dealt with the certificate is some indication of the attribution to the Court of Star Chamber of the jurisdiction of the Council under the statute of Henry 4. But it is by no means conclusive, for at a period when a President of the Council does not appear to have existed by that title the Chancellor probably discharged the office.³ In 1363 the

¹ ‘Select Cases in the Court of Requests,’ Selden Society, 1898, p. cviii.

ii. 569; i. 248; ii. 299.

² J. Le Neve, ‘Fasti Eccl. Angl.’ (1854),

³ See an enumeration of the five great officers of State in Rot. Parl. iii. 72, a.

Chancellor and the Treasurer are represented by the Commons as receiving 'false suggestions' contrary to the Great Charter.¹

A similar assumption in the minds of men at the end of the fifteenth or the beginning of the sixteenth century of the identity of the Court of the Star Chamber with the King's Council sitting as a judicial body appears in the pleadings of the Earl of Northumberland, defendant in a suit brought by John Goryng. The Earl charges John Goryng with having been guilty in his petition of the offence known as *Scandalum Magnatum*. 'Wherfor and in consideration that the seid Erle is oone of the Nobyll Perys of this realme he besechith your good lordshippis that the seid Complaynaunt for his seid sclawnderous bill may be punysshed in example of other according to the moste honorabill lawes and statutes in like cases ordeyned and prouyded' (p. 101). The principal statute in point thus invoked was 12 Ric. 2, c. 11, passed in 1388, which provided that the inventor and spreader of 'false news, lies, or such other false things' should be 'punished by the Advice of the Council.' It is to be observed that upon this matter it is to 'your good lordshippis' that the Earl appeals, though the address of the plaintiff is 'To the kyng oure soueraigne lorde.'²

Again, the Abbot of St. Augustine's, Canterbury, puts in a remarkable plea (p. 20), apparently constructed upon the ordinances of Council of 1426,³ the Act of 31 Hen. 6, c. 2, legalising for seven years the issue of writs of privy seal summoning offenders before the King or his Council in case of 'great riots, extortions, oppressions, and grievous offences,' and the Act of 1487 'Pro Camera Stellata.' In the absence of riot, which is not alleged against him, he pleads to the jurisdiction of the Court. He further pleads the Act 42 Ed. 3, c. 3, against the practice of citing persons by false accusation before the Council. This part of his answer may therefore be resolved into four constituent elements. Of these three are based upon the assumption that the Court is the old Council. The fourth part, a confused reference to the Act of 1487, which the draughtsman can scarcely have read, and which was perhaps not then yet printed, tells us nothing one way or the other. Another plea of no riot is set up by the defendant in *Halle v. Essex*, heard in 1503. 'There is no matiere of Riott surmysed in the said bill wherby he shuld be compellid to make answere in this Court' (p. 175). Upon this plea it may be contended that, in the opinion of the defendant's counsel, the Court

¹ Rot. Parl. ii. 280, a.

² P. 95. See further p. 102, n. 17.

³ See H. Nicolas, 'Proceedings &c. of Privy Council' (1834), iii. 214, 217.

was the creation of the statute of 1487, and its jurisdiction strictly limited thereby. But, assuming the limitation of jurisdiction, the statutory origin of the Court is not a necessary inference. Indeed, it is arguable that the plea of no riot descended to the lawyers from the days before the Act of 1487, and was a plea to the jurisdiction of the Council as regularised and limited by the Act of 1453 (31 Hen. 6, c. 2).¹ Undoubtedly the 'misbehavyng before rehersed,' to which the Act of 1487 was applicable, covered more offences than that of riot, while the Act of 1453 enumerates 'great Riots, Extortions, Oppressions, and grievous offences against his [the King's] Peace and Laws,' which seem to be ejusdem generis as riot. But it is also true that in common estimation 'that which was principally aimed at in the Act [of 1487] was Force, and the two cheife supports of Force, Combination of multitudes, and Maintenance or Headship of great Persons.'² Nevertheless Bacon says, 'The authoritie of the Star Chamber, which before subsisted by the ancient Common-Lawes of the Realme, was confirmed in certain cases by Act of Parliament.' A plea of no riot, therefore, would not, in his opinion, imply that the Star Chamber was of statutory origin.

There is evidence to shew that, after the Star Chamber had become a vigorous Court, constantly exercised in the punishment of riots, the Council retained an independent seisin of the offence of riot, so that the plea of 'no riot' might be made either to the Council or to the Star Chamber indifferently. It is further to be remembered that the pleadings of the Abbot of St. Augustine's point rather to proceedings before the Council than before the Star Chamber, while no mention of the Star Chamber occurs in *Halle v. Essex*. However this may be, the evidence that the Council still concerned itself with riot belongs to the year 1500 and is as follows: '16 Hen. 7, 16 Novembris apud Woodstocke causa inter Nicholaum Leeche & Joannam uxorem eius contra Nicholaum Galon, Joannem Moore & cæteros quoad titulum terrarum & tenementorum in controversia inter partes predictas & fractionem pacis superpositam in billis querelæ remittitur Consilio Domini Regis in Camera stellata apud Westminster ubi eadem causa pendet indecisa, ibidem determinanda, & quoad riotam suppositam in billa, partes predictæ habent diem crastinum

¹ Cp. Rot. Parl. v. 266. It must not be assumed that, because an Act was temporary, as was that of 1453, it was invariably treated as expired. I have come across judicial proceedings in the sixteenth century taken on expired statutes, it being

apparently a principle that a formal repeal was necessary even of a temporary Act. See further pp. lxi and lxiv, *infra*.

² F. Bacon, Viscount St. Alban, 'The Historie of the Raigne of King Henry the Seuenth' (ed. 1622), p. 64.

purificationis beatæ Mariæ proxime futurum ad probandum per eos allegata concernentia dictam riotam ubicunque & hoc sub pœna eorum cuiuslibet 110 librarum.’¹ Woodstock was a royal manor, and this may possibly have been the reason for bringing the suit before the King in Council, though there is no indication of this in the entry as printed by Cæsar. Doubtless the question of title was remitted to the Star Chamber as involving legal questions on which the expert opinion there available would be important; but it is curious that the matter of the riot should have been separately dealt with by the Council itself, and unless the reason of this was that it was a manorial offence—which there is nothing to shew—the conclusion is that both tribunals exercised concurrent jurisdiction in these cases. On the other hand, from the same source comes the record that a cause was remitted ‘in cameram stellatam pro eo quod concernit riotam.’²

It is uncertain, therefore, whether the plea of ‘no riot’ was to the jurisdiction of the Council or to that of the statutory court. Yet these were probably not two mutually exclusive conceptions. It has been observed that in the Elizabethan age, when these legal positions were subjected to analysis, the justification of the extension of the Star Chamber’s jurisdiction beyond the articles of ‘misbehavyng’ enumerated in the statute of 1487 was based upon the contention that the Court of the Star Chamber was, as its forms ran, the King’s Council with the indeterminate authority exercised by it before that statute was passed. This proposition was not uncontroverted. Hudson, after laying down that ‘the Court subsisteth by antient prescription, and hath neither essence nor subsistence by that act of parliament’ (3 Hen. 7, c. 1), continues: ‘And it is most sure that it is a received opinion that the court should meddle with no other causes than are expressed in the statute 3 Hen. 7, c. 1; and I well remember that the Lord Chancellor Egerton would often tell that in his time, when he was a student, Mr. Serjeant Lovelace put his hand to a demurrer in this Court, for that the matter of the bill contained other matters than were mentioned in the statute of 3 Hen. 7, and Mr. Plowden, that great lawyer, put his hand thereto first, whereupon Mr. Lovelace easily followed. But the cause being moved in Court Mr. Lovelace, being a young man, was called to answer the error of his antient Mr. Plowden, who very discreetly made his excuse at the bar that Mr. Plowden’s hand was first unto it and that he supposed he might in

¹ Sir J. Cæsar, ‘Acts, Orders, and Decrees made by the King and his Council’ in ‘The Ancient State, Authoritie and

Proceedings of the Court of Requests’ (1597), p. 26. Printed by Miss Scofield, p. 28.

² Cæsar, p. 62; Scofield, p. 28.

any thing follow St. Augustine. And although it were then overruled, yet Mr. Serjeant Richardson, thirty years after, fell upon the same rock and was sharply rebuked for the same; for the causes mentioned in that statute are but seven in number: 1, Maintenances. 2, Giving of liveries. 3, Having retainers. 4, Imbracery. 5, Jurors receiving money. 6, Untrue demeanors of sheriffs in false returns and pannels. 7, Routs and riots. A small theme to exercise that Court; where, indeed, all the principal offences here examined are not once touched, as forgery and perjury, frauds, contempts of proclamations, duels, and a multitude of others which I shall hereafter recite. But I will not dwell upon this point, seeing all that have written of this, as Mr. Lambert and Mr. Crompton, have made this no question.¹

In this connexion the indorsement in *Smyth v. Broke* (p. 42), already mentioned,² deserves special attention. It is an action for defamation, a fact that is commented upon elsewhere.³ The original indorsement appears to have ordered the appearance of the defendant ‘coram domino Rege ubicunque fuerit.’ This was the form in use for summons before the Council attendant upon the person of the King, as distinguished from the Star Chamber at Westminster. An example of this has just been seen in the Woodstock case. Another occurs in the ‘Acts Orders and Decrees made by the King and his Council’ collected by Sir Julius Cæsar.⁴ ‘15 Augusti 9 Hen. 7, apud Windsor. Memorandum quod eodem die in Camera ad hoc assignata comparuit Tho. Cresset armiger super quadam recognitione, ut ibidem Thom asseruit, facta coram domino Cancellario in Camera Stellata, ad personaliter comparendum coram domino Rege in Consilio suo ubicunque dicto 15 die Augusti: Et habet ad personaliter comparendum de die in diem quousque aliter per dictum dominum regem & Consilium suum in hac materia decretum fuerit &c. et hoc sub periculo incumbenti.’ In *Smyth v. Broke* the indorsement is varied, and appearance at Westminster, i.e. presumably in the Star Chamber, there substituted for the form ‘vbicunque.’ This is the only distinct indication in these papers subsequent to 1487 of the fact that the Council

¹ ‘Of the Court of Star Chamber,’ p. 51. The incident narrated by Hudson is confirmed by Hawarde, who adds the dates. ‘31 Oct. 1606. . . . It was resolved by all the Courte that this Courte may determyne all periuries at the Common lawe, & that it was an aunciente Courte longe before H[enry] 7 & determyned Causes, & R[ichard] 3 sate judiciallye in this Courte: & the Lo. Chauncellor sayde that in Chancellor Bromlie’s time, Serg^{te} Lovelace &

Ployden had set there handes to a demurror for suche a bill of periurye, & were counted & bitterlye reprehended in this Courte, to which Lovelace made his excuse &c.’ *Les Reportes del Cases in Camera Stellata*, pp. 301-2. Sir Thomas Bromley was Lord Chancellor 1579-87.

² P. xxvii, supra. ³ P. cxxxii, infra.

⁴ ‘The Ancient State, Authoritie and Proceedings of the Court of Requests, Anno 1597,’ p. 2; Scofield, p. 27.

continued to exercise an indeterminate legal jurisdiction side by side with the Star Chamber. The capital distinction between the two was that the Council heard causes in private; the Star Chamber was, as Bacon phrased it, 'an open Council' or public court.¹ Archbishop Grindal was informed that 'her Majesty findeth it expedient to have the world understand her actions in this matter; and also to have the Archbishop's misdemeanors declared and to call him to answer to the same: therefore he is to answer thereto in that open place,' i.e. the Star Chamber.² Sir John Smythe complained to Burghley that instead of being called before the Council Table, he had been brought 'into a public audience in the Star Chamber.'³ In another instance the Council expresses resentment at the transfer by a complainant of his case to the Star Chamber.⁴ The other differences were that after the statute of 1487 the judges and others do not appear to have been summoned to the Council Table for the hearing of cases, but only to the Court of the Star Chamber,⁵ and that, according to Coke,⁶ the Star Chamber then received the power of administering interrogatories to be answered on oath by the statute. This practice had been surrendered by the Council in deference to the protest of the Commons in 1351, except in certain ill-defined cases, and had not been afterwards resumed.⁷

Notwithstanding, therefore, the existence in the Council of a concurrent judicial power, subject to certain restrictions, a continuous legal tradition, not uncontested in Elizabeth's time, has been seen to imply the continuity of the Court of the Star Chamber with the King's Council sitting as a court of judicature, and to deny it a statutory origin. From the same implication the lawyers of the reigns of Henry 7 and Henry 8 appear to have inferred that the composition of the Court was not necessarily that prescribed by the statute, and this doctrine was extended from its composition to its jurisdiction. It is strange that upon the former question we have no indication, beyond Coke's vague doctrine of affirmation, of the legal reasoning by which the statutory composition came to be considered non-essential. Nevertheless it is perhaps possible to fill the gap conjecturally.

It was laid down by the Court in 1606 that the full description of

¹ Scofield, p. 59.

² J. Strype, 'Life of Grindal,' p. 348; Scofield, p. 58, n. 4.

³ S. P. Dom. 1595-97, pp. 422-423, ib.

⁴ Acts of Priv. Co. vii. 405 (21 Dec. 1570); Scofield, p. 56.

⁵ B. M. Lansd. MS. 59, art. 64, ib. p. 43.

⁶ E. Coke, 4 Inst. 63.

⁷ Rot. Parl. ii. 228, a. 'Mes de chose que touche vie ou membre, contemptz ou excesse, soit fait come ad este use cea [qu. ceo] en arere,' a rather elastic excepting clause.

its process was 'Coram Domino Rege in Camera stellata coram Consilio ibidem.'¹ This legal fiction, translated occasionally into reality by Henry 7 and James 1,² tacitly undermined, I conceive, the imperativeness of the statutory composition. It was admitted on all hands that the sovereign was the fountain of justice, and the chancellor and the judges his delegates. Where the source was, the derivative streams were superfluous. The Court was always supposed to be held before the King, for whom a seat was reserved empty,³ and whether the officials nominated by the Act were sitting or not, was, in the presence, real or constructive, of him from whom its jurisdiction flowed, a matter of no legal import.

It is easy to believe that, whatever the legal justification for neglect of the statute of 1487 as to the composition of the Court, some was demanded by circumstances unless the whole system of prerogative justice was to fall into disuse. Henry 7 was perhaps less migratory than his successor, but the Patent Rolls and the Privy Purse expenses indicate the frequency of his progresses. These were probably accompanied by the Lord Privy Seal, who was at this time President of the migratory Court of Requests. The Lord Privy Seal at the time of the passing of the Act of 1487 was Richard Foxe, Bishop of Winchester.⁴ Foxe, however, was habitually employed by Henry 7 in diplomatic missions. At the time of the passing of the Act of 1487 he was at Edinburgh, negotiating a treaty with James 3 of Scotland.⁵ He accompanied Henry 7 to Boulogne in October 1492, and afterwards negotiated the peace of Etaples (November 3),⁶ and the 'Intercursus Magnus' with Philip, Archduke of Austria, in 1496.⁷ Upon

¹ J. Hawarde, 'Les Reportes' &c., p. 302.

² 'But to omit that of Rich. 3 and sundry other Records of other times, concurring in the same testimonie, those twelve severall statly Sessions, honoured with the Royall presence of King Henry 7, and sometimes with almost forty of his Councell in the 1 and 2 yeeres of his Reigne, and sundry others performed by his Chancellors and Councell in the same place, doe assuredly teach that it was the ordinarie Councell-Chamber of the King, whensoever he and his Court did lye and sojourne at his Palace in Westminster, frequented no lesse for deliberation on matters of estate than for decreeing extraordinarie suits and Causes of Complaint,' W. Lambard, 'Archeion,' p. 153.

³ W. Lambard, 'Archeion' (ed. 1635), p. 101. 'I doe affirme that the King hath a supreme Court of Prerogative whereunto

his subjects in such their necessities may provoke, as to his owne Royall person; and wherein there is place left for him to sit, the which our Kings in person have oftentimes frequented and were [qu. where] assisted with such men of Nobilitie, Wisdom and Learning as he shall chuse, he may in Royall presence use his judiciall authoritie, or otherwise for the time being abstaine to be present there, and leave the proceedings to those selected men.' These men, he says, 'we doe commonly call the King's Councell,' which he proceeds to identify, in this its judicial capacity, with the King's Council sitting in the Star Chamber.

⁴ He had been appointed on Feb. 24, 1487. W. Campbell, 'Materials' &c., ii. 150.

⁵ Rymer, 'Fœdera,' xii. 329-331.

⁶ Ib. 499.

⁷ Ib. 579.

the occasion of James 4's invasion of England, in the summer of 1497, Bacon represents Foxe as himself attending to the defence of the frontier.¹ Such are but samples of his preoccupations, so that Bacon, in mentioning the part he took in the marriage of Arthur, Prince of Wales, to Katharine of Aragon, remarks of him that he 'was not only a graue Counsellor for Warre or Peace, but also a good Surueyours of Workes and a good Master of Ceremonies, and any thing else that was fit for the Actiue part belonging to the seruice of Court or State of a great king.'² He remained in office as Lord Privy Seal and constantly occupied with diplomatic and other employments till the beginning of 1516. In June 1501 Thomas Howard, Earl of Surrey, was appointed Lord Treasurer. To his occupation as a diplomatist, in which business he was sometimes employed together with the Lord Privy Seal,³ he added that of a soldier. It is scarcely possible that the meetings of the Court of the Star Chamber could have been regular had they awaited the statutory quorum of two out of the three great officials named. In that case the Court would have afforded little resort for private suits, a consequence more to be deprecated in the eyes of the first two Tudors, who cherished it as an instrument of prerogative, than was a departure from the wording of a statute. The historians of the Court tell us, on the contrary, that it had 'a continued session in term time⁴ and day given over from time to time. So you shall find it in the reign of Hen. 7 and Hen. 8 as well as now and then more continual without days of intermission, whereas now the court sitteth ordinarily but two days in the week, the same then sitting, for the most part, every day of the week.'⁵

If it be asked why Henry 7 gave a statutory composition to a Court which, as he must have foreseen, could only at occasional intervals fulfil the conditions of its statutory existence, it is difficult to find any answer other than that given by Smith, Mill, Cowel, and Hudson.⁶ If the judges of 1493 were right, the so-called Court of Star Chamber during the exercise of much of its activity in the reigns of Henry 7 and Henry 8 was no Court. It was trying the offences committed to it by the Act of 1487 in the absence of the quorum

¹ 'Historie of the Raigne of King Henry the Seuenth,' p. 173.

² 'Historie,' p. 204.

³ E.g. in 1507 and 1508. Rymer, 'Foed.' xiii. 201.

⁴ Hudson, p. 5. It is to be observed that in this, as in the rest, the Court of the Star Chamber sitting after 1487 followed the practice of the Council sitting in the

Star Chamber before 1487. See further, p. lxviii, *infra*.

⁵ But the accounts of the dinners of the Court and the Book of Entries ('Liber Intrationum'), *temp.* Hen. 7 and Hen. 8, rather indicate that the Court did not sit more than three days a week. Scofield, p. 68, n. 3.

⁶ See pp. xxxix-xli, *supra*.

of two of the three officials designated by that Act as the sole judges of the Court. But this could not have been intended by Henry 7. He, at any rate, contemplated the organisation of a practical and efficient tribunal. The judgement of 1493 looks, therefore, like an attempt prompted by the secular jealousy entertained by the Common Law judges against the prerogative to impair the activity of the Star Chamber. That in this they were absolutely unsuccessful is clear. Neither Henry 7 nor Henry 8 accepted their doctrine as binding, and the construction put upon the Act by the sovereigns was finally ratified, as Hudson tells us, 'in Proctor's case,' in which it was resolved by 'the three principal judges' that 'neither did that statute (the Act of 1487) make those lords sole judges of that Court, and yet compelled them to call assistants, otherwise their proceedings were erroneous, as it is held in 8 Hen. 7, c. 13.'¹

5. If, then, the essential importance of the Act of 1487 in the eyes of its framers lay neither in the imposition of judicial duties upon functionaries long before accustomed to exercise them, nor in the assignment of an exclusive statutory composition to an existing Court, nor yet in the creation of a Court *de novo*, it seems to follow that we must look for it in the sphere of jurisdiction. What was the position of the King's Council sitting as a judicial body in the Star Chamber prior to and after the Act? Sir F. Palgrave² has long since shewn from the Rolls of Parliament the continuous struggles of the Commons against the assumption by the Council of the functions of the Common Law Courts, whether in civil or criminal cases. It is not necessary to recapitulate here the incidents of that contention. So far as private suits were concerned, the Council, of which, at any rate, the Court of the Star Chamber affected to be the successor, had for some time prior to 1453 settled its principles and practice. In 1390 it had passed an ordinance '*que les busoignes touchantes la comune ley soient envoiez pur estre determinez devant les justices.*'³ This was an unqualified concession to the demands of the Commons. In 1423 the disposition of the Council was less yielding. They passed a series of resolutions under the title, '*Thise ben certain Provisions for the good of the gouvernance of this Land that the Lordes which ben of the King's Counsaill desireth.*' Of these the third was 'that all the Billes that comprehende materes terminable atte the Commune Lawe, that

¹ 'Of the Court of Star Chamber, p. 50.

² Sir F. Palgrave, 'Essay upon the Original Authority of the King's Council,'

published by the Record Commissioners, 1834. See also Scofield, *Introd.*

³ H. Nicolas, '*Proceedings*' &c., i. 18, a.

semeth nought fenyd, be remitted there to be determined ; but if so be that the discrecion of the Counsaill feele to greet myght on that oo syde and unmyght oo that othir.'¹ Three years later (1426) they amplified their powers by an additional proviso. 'Item, that all the billes that comprehende matiers terminable at the commune lawe be remitted there to be determined but if it so be that the discrecion of the counsaile feele to great myght on that oo syde and unmyght on that other orellus other cause resonable that shal moeve him.'² This last ordinance, endowing them with a power absolutely discretionary, received the assent of Parliament in 1429, either because of a general sense that more prompt and effective justice was needed or because the experience of three years had justified the Council's practice.³

Eight years later Parliament again interfered to check the power of the Council. Writs of subpœna, it complained, had been purchased for matters determinable by the common law of the land. It devised a restraint therefore upon vexatious prosecutions by prohibiting the issue of a Writ of Subpœna 'until surety be found to satisfy the Party so grieved and vexed for his damages and expences, if so be that the Matter cannot be made good which is contained in the Bill.'⁴ Of this statute Lambard has noted that it provides a safeguard which forms no part of the Act of 1487.⁵ It was evidently for the benefit of the defendant. Its exclusion by the later Act had the effect, according to him, of strengthening the power of the Court.

But the principal Act, regulating the procedure of the Council in dealing with flagrant breaches of the public peace, was the 31 Hen. 6, c. 2, passed in 1453. This Act has the further importance that it was the first which gave a statutory authority to the initiation by the Council of proceedings founded upon the jurisdiction which the Council had wielded from time immemorial over this class of offence. The Act recites the endeavours made by the Council to grapple with the mischief and the ineffectiveness of the machinery at its disposal. 'Forasmuch as the King our Sovereign Lord before this Time, upon certain Suggestions and Complaints made as well to him as to the Lords of his Council upon divers Persons of this his Realm for great Riots, Extortions, Oppressions and grievous Offences by them done against his Peace and Laws to divers of his liege People, hath given in Commandment, as well by his Writs under his Great

¹ Rot. Parl. iv. 201, b.

² H. Nicolas, 'Proceedings,' &c., iii. 214.

³ Rot. Parl. iv. 343 ; Palgrave, 'Essay'

&c., p. 81.

⁴ 15 Hen. 6, c. 4 (1437).

⁵ 'Archeion' (1635), p. 167.

Seal, as by his Letters of Privy Seal, to appear before him in his Chancery, or before him and his Council at certain Days in the same Writs or Letters contained, to answer to the Premises; which Commandments be and many Times have been disobeyed, in Contempt of the King our said Sovereign Lord and to the great Hindrance, Damage and Delay of his said Complaints in this Behalf.' By way of remedy Parliament, alarmed at Cade's rebellion, abandoned its time-honoured resistance to the issue of Writs of Privy Seal.¹ It was now enacted that disobedience to writs under the Great Seal or Letters under the Privy Seal should be followed by the issue by the Chancellor of a Writ of Proclamation to the sheriff of the county. Under this writ the sheriff was bound to make three proclamations on successive days in the county town, ordering the person summoned to appear before the King's Council, or before the Chancellor, within a month after the date of the last proclamation. On default of the appearance of the person so summoned the procedure varied according to his rank. A peer enjoyed the benefit of a respite by means of a second writ of proclamation, neglect to comply with which involved forfeiture of his place in Parliament, of any fees, offices, &c. enjoyed by him through grant from the Crown, and failing these of all his lands. For commoners the procedure was more summary. The offender not surrendering at the first proclamations became liable to be fined by the chief justices of the King's Bench and Common Pleas. If indigent, he was put out of the King's protection. A proviso was interposed that matters determinable by law should not thereby be withdrawn from the King's Courts. This was nugatory, seeing that the Council had for twenty-seven years professed to act upon that principle.

The Act of 1453 was limited to seven years. But it was frequently the practice at this period for governments to treat as in force statutes which had never been formally repealed. At any rate, we know from a bill put in by Lord Straunge before the King and Council on November 12, 1467, that fourteen years later this procedure was observed. The occasion was an instance of private warfare carried on in the wild country of the Marches of Wales, and from the case published in this volume of *Straunge v. Kenaston* (p. 274) this particular feud may be seen to have survived down to the eve of the accession of Henry 8. It is of importance in

¹ See Rot. Parl. ii. 168, a (1347); 280, a (1363); 282, b (1363); iii. 21, a, b (1377); 266, a (1389); 267, b (1389); 471, b (1401); 510, b (1402); 586, a (1406); 587, b (1406); 588, b (1406); iv. 156, a (1421); v. 407, b (1427); 409, a (1427).

connexion with the question of the significance of the Star Chamber Act of Henry 7 to see how it was dealt with 'in the Sterre Chamber at Westminster, the xvj daye of November, the vij yere of the regne of oure soueraigne Lord the King Edwarde the Fourthe . . . by thavise of his Counsaill.'¹ It is unnecessary to enter into the details of the dispute further than to say that an award having been ordered by the Council and given unfavourably to a part of the claim of the defendant, Roger Kynaston, he refused obedience and asserted his right by violence. Upon the complaint of the petitioner, John Lord Straunge, 'your said highnesse hath directed your lettrez under your signet unto the said Roger, to appire affore your highnesse and the lords of your most notable Counsaill to answare to the premisses. And he havng no regard to your said commaundment . . . that to do, but utterly refusith, whereupon your said highnesse, by thavise of the lordes of your Counsaill, directed your moost gracious lettrez of priue seale, directed unto the said Roger commaunding him straytely by the same upon gret paynes to appear affore your highnesse in your Counsaill, tansware to such thyngs as there shuld be layde agenst him.' Here we have the first step authorised by the Act of 1453. Kynaston treated the King's 'messenger' contumeliously, took away the letters from him, and threatened him 'that if he wold nat retourne agayne and say he coude nat mete with the said Roger that he shuld dey.' The Council behaved with singular forbearance, doubtless because Kynaston was a zealous Yorkist. He had fought on the side of the Duke of York, the King's father, against Henry 6 at Ludford on October 12, 1459.² For this he had been heavily fined by the victorious Lancastrians.³ After the accession of Edward 4 in March 1461 he became sheriff of Salop,⁴ and was active in suppressing Lancastrian disaffection.⁵ Down to 1465 he had been a justice of the peace for the county.⁶ These eminent services sufficiently account for the departure in his favour from the more peremptory procedure of the Act of 1453.⁷ The Council, therefore, as though dealing with a peer,

¹ See F. Palgrave, 'Essay,' p. 135, foll.

² Rot. Parl. v. 368.

³ Ib.

⁴ P.R.O. List of Sheriffs, p. 118.

⁵ Pat. Rolls, Ed. 4, 1461-67 (Aug. 12, 1461), p. 98.

⁶ Ib. 570.

⁷ He appears to have established his claim to the lands in dispute (see Pat. Rolls, 20 Ed. 4, pt. ii. p. 218), and how trivial his misconduct was deemed, or how great his influence was at Court, is apparent from the fact that he was again on the

commission of the peace on Dec. 1, 1468 (Pat. Rolls, Ed. 4, 1462-77, p. 627), and sheriff from 1469 to 1471, though in the interval (Nov. 6, 1470, to April 11, 1471) he was ejected for a Lancastrian during the restoration of Henry 6 (Oct. 9 to April 14, 1471) (P.R.O. List of Sheriffs, p. 118). In the course of 1471, between April 11 and Sept. 29, he was knighted, and was probably the Sir Roger Kingeston stated to have been knighted by Edward 4 on the field of Grafton beside Tewkesbury (May 3, 1471) (W. C. Metcalfe, 'Book of Knights,'

issued fresh letters of summons with which he was duly served, but which he treated with contempt, 'contynuing stille in his said murdres, manslaughter, roberies, extorcions, oppressions & raunsons, enprisonementz there of your liegemen, servauntez, & tenauntez of your said suppliant, worse and in more horrible wise than it were in land of war.' This, being the plaintiff's version of his conduct, is perhaps somewhat highly coloured, but it moved the Council to take the step which the Act of 1453 authorised after a first contempt. A writ of proclamation was duly issued to the sheriff of Salop 'to make open proclamacion withynne the said counte that the said Roger shuld appere affore your highnesse and the lordes of your Counseille at the quinzisme of Michaelmas last past, on his allegeaunce (and to kepe the pease in the meane time upon his ligeance).' The proclamations are stated to have been duly made throughout the county. The date of the issue of the writ of proclamation does not appear, but it would seem that it was before Long Vacation; for the Council in the Star Chamber kept, as has been seen, the legal terms. This probably explains the reason why the defendant was not called upon, in accordance with the provisions of the Act of 1453, to appear before the Council or the Chancellor within a month of the last proclamation. In the meanwhile Kynaston, so far from keeping the peace, 'contynued . . . wors than before,' and on August 28, 1467, a commission issued to John Talbot, Earl of Shrewsbury, Sir William Herbert and the Sheriff of Salop 'to arrest Roger Kynaston, late of Walford, co. Salop, Esquire, alias of Knokyn in the Marches of Wales, and bring him before the King in Council.' Kynaston thereupon fled to 'the high parties of Wales called Powys land and there kept hym in mounteynes, mareys and wodes, as an outlawe, associate with mony other of mysruled people like outlawes, and yit dothe.' This was a proceeding for which the Act did not expressly provide, it being

p. 3), in which battle he doubtless fought, for his name appears on the commission of array issued by Edward 4 on the previous April 26 (Pat. Rolls, 11 Ed. 4, pt. i. p. 284). On Feb. 8, 1473, he petitioned Edward 4 for the confirmation of the grants of the constableness and captainship of the Castle of Hardlaugh (Harlech) and the Sheriffwick of Merionethshire, pleading his true and faithful service to the King and his father. His petition was granted (Rot. Parl. vi. 46, b). He was trusted by Richard 3, being commissioned by him on Dec. 10, 1483, to inquire into the circumstances of the rising of the previous October (Pat. Rolls, 1 Ric. 3, pt. ii. p. 392). He was

a commissioner of subsidy for Salop in the same year (ib. p. 396), a commissioner of array on May 1, 1484, to make preparations for repelling invasion by Henry, Earl of Richmond (Henry 7) (ib. p. 401), and his fidelity was rewarded by a fresh grant of the constableness of Hardlaugh (Dec. 15, 1483, ib. p. 408), of an annuity of 40 marks, and the renewal of the offices of sheriff and escheator of Merionethshire (March 5 and 8, 1484, ib. p. 441). He was also nominated by Ric. 3 upon the commission of the peace for Salop (June 26 and Dec. 5, 1483, ib. p. 570). He died in 1496 (Hart. Soc. xxviii. ii. p. 295) (Visitation of Shropshire).

¹ Pat. Roll, 7 Ed. 4, pt. i. m. 13, d.

assumed by it that an offender would, in case he had shown contempt for the Writ of Proclamation, submit to a fine by the two chief justices. The petitioner, therefore, asked the King to issue a privy seal to the commissioners 'commaundyng them most straightly to execute the said commission,' which suggests that they sympathised with the offender. But as their authority would be confined to the county of Salop, he asks the issue of writs of proclamation to the justices of the peace and other officers as well of Salop as of the counties of Flint, Hereford, and Chester, ordering them to arrest the defendant. These writs were on Nov. 12, 1467, ordered by the Council sitting in the Star Chamber to issue. The conclusion is that the Act of 1453 established, and perhaps followed, precedents for the action of the Council towards notable disturbers of the peace which were maintained after the Act itself had expired.

Henry 7 ascended the throne anxious to maintain the Lancastrian tradition of parliamentary government. A scrutiny of the statutes passed by him will shew that for the most part they were not novel in kind, but an endeavour to enforce existing laws. His predilection for an adherence to constitutional forms was doubtless due to the teaching of Fortescue, the author of two text-books for Lancastrian statesmen, and the influence of Archbishop Morton, during whose lifetime he summoned frequent parliaments. Accordingly, in the statute 'Pro Camera Stellata,' the main thought was to legalise a jurisdiction which, under Edward 4, was irregularly exercised, but which had a statutory pedigree derived from the Act of 1453.¹ That Act had expired on May 1, 1461, two months after Edward had ascended the throne. The new measure was an improvement upon it in two ways. In the first place, it largely increased the number of offences with which the Court was thenceforth by consent of Parliament competent to deal. In the second place, by giving a statutory sanction to the issue of Writs of Subpœna or Privy Seal, it put an end, for a long while to come, to those continual bickerings between the Sovereign and the House of Commons which marked the meetings of so many Parliaments under Richard 2 and his two successors. Thirdly, it extended to all cases covered, at least, by the statutory jurisdiction, the ancient but controverted and in part abandoned

¹ 'Truely I could rather, if I knew not the Star Chamber to haue been ever a Court, haue thought it to haue beene erected by this statute of 31 Hen. 6 & it conuereeth soe even with our iurisdiction now both in the Nature of offences and practice

of addressing Proses and sheweth our verey Courte in all Congruence and Cometh verey neare a verey Court in forme of Lawe.' W. Mill in B. M. Hargr. MS. 216, f. 118, d.

practice of the Council of examining defendants upon oath. So far as the statesmen of the day appear to have intended, they were obtaining fresh parliamentary powers to deal with the disorders which were then rendering the task of government difficult. The tacit enlargement of the powers of the Court undoubtedly arose from the accredited belief that it inherited the undefined powers of the Council to deal with new emergencies. To this may be added the natural tendency to the extension of jurisdiction common to all courts and the political advantages which the control of a powerful judicial tribunal was eventually seen to confer upon the Sovereign.

By way of illustration of the conservative character of the Act and of the advantage gained through it to the executive government, we may take the offences specified by it as appertaining to the jurisdiction of the Court. Unlawful maintenance was no offence then first arbitrarily created. Coke, indeed, declares that 'maintenance is malum in se,' and against the common law,¹ and the cc. xxv-xxviii.² of the statute of Westminster the First were enacted against specific forms of it as early as 1275. During the reigns of Edward 3 and Richard 2 statute followed statute for its suppression. A principal difficulty in enforcing these was, as we learn from a statute of 1330,³ that where great men were concerned jurors of inquests dared not give their verdicts. It is evident that the assignment by that Act and an Act of 1346⁴ of cases of maintenance to the Justices of Assize did little to correct the practice. Similarly with the giving of liveries, a statutory offence closely connected with maintenance. The first Act against these, passed in 1377,⁵ recites that liveries are given with the 'covenant and assurance that every of them shall maintain other in all quarrels, be they reasonable or unreasonable, to the great mischief and oppression of the people.' The Act then provides that 'henceforth no such livery be given to any man for maintenance of quarrels or other confederacies upon pain of imprisonment and grievous forfeiture to the King, and the Justices of Assize shall diligently inquire of all them that gather them together in fraternities by such livery to do maintenance.' Supplementary statutes against liveries passed in 1392,⁶ 1396,⁷ 1406,⁸ and 1468⁹ prove how little effective the law was. Could it be otherwise when the offence was tried before a country jury in sympathy with the practice, from which they derived the advantage of the protection of a powerful

¹ 2 Inst. 212.

² 3 Ed. 1 (1275).

³ 4 Ed. 3, c. 11 (1330).

⁴ 20 Ed. 3, c. 6 (1346).

⁵ 1 Ric. 2, c. 7.

⁶ 16 Ric. 2, c. 4.

⁷ 20 Ric. 2, c. 2.

⁸ 7 Hen. 4, c. 14.

⁹ 8 Ed. 4, c. 2.

lord,¹ and with the offender their patron and neighbour? How difficult it was to uproot the system is evident from the fact that the year of the Act 'Pro Camera Stellata' saw passed 'an Acte agaynst retayning any of the Kynge's tennantes,'² and in 1504 an Act prescribing new penalties was passed 'De Retentionibus illicitis.'³

Akin to maintenance, with which it was sometimes coupled,⁴ was 'embraciaries of his subgettes,' by which is generally understood the corruption of jurors by promises, entreaties, money, entertainments, and the like.⁵ With this offence the Act of 1487 joins 'ontrue demeanyges of Shrevys in makynge of panelles and other ontrew retournes' and 'takynge of money by jurryes.' It is obvious that practices which corrupted the jury system at the very root could only be effectually dealt with by the executive, which the Star Chamber at this time practically was,⁶ and the numerous statutes which had failed to repress these malpractices confirm this presumption.

As the following cases shew, even in the days of Henry 7 the Court did not confine itself within the offences enumerated by the statute of 1487. The first case undoubtedly heard after that Act, though begun before, the case of the Prior of Bath against the Abbot of St. Augustine's, Canterbury (pp. 20-34), might be called an action of detinue and an action for an account; the three cases of *Vale v. Broke*, *Donyngton v. Broke*, and *Smyth v. Broke* (pp. 38-45) are actions for defamation; *Madeley v. Fitzherbert* (pp. 54-69) is an action for a wrongful impounding, an essentially common law action; the *Lead Miners of Yorkshire v. the Merchants of York* (pp. 69-71), which was very likely remitted to the common law courts, was an allegation of a statutory offence; *Hewyt and others and the Mayor &c. of Exeter against the Mayor &c. of London* (pp. 71-95) complain of a violation of royal charters; *Goryng v. the Earl of Northumberland* (pp. 95-105) is a case of alleged illegal detention or false imprisonment; so is *Jones v. Lychfeld* (pp. 275-278) and *Carter v. the Abbot*

¹ That the immediate dependants of the Court were foremost in these practices appears from the number of statutes specifically directed against them, as 1 Ed. 3, st. 2, c. 14 (1327); 20 Ed. 3, c. 4 (1346); 1 Ric. 2, c. 4 (1377); and 7 Ric. 2, c. 15 (1383). Similarly, champerty, a form of maintenance, was expressly forbidden to the King's officers by the statute of Westminster the First, c. 25 (1275).

² 3 Hen. 7, c. 12 (1487).

³ 19 Hen. 7, c. 14. See further on this subject re the Abbot of Eynesham v. Harecourt, p. 139 n. 7, *infra*.

⁴ 19 Hen. 7, c. 13, *De Riotis reprimendis* (1504). 'And if the seid riotte route or unlawefull assemble be not found by the seid Jury, by reason of any mayntenauncez or embracery of the seid Jurrours' &c.

⁵ Blackstone, 'Commentaries' (ed. 1769), bk. iv. c. 10, § 18. See also W. Lambard, 'Archeion' (1635), 200, and T. Hearne, 'Curious Discourses' (ed. 1771), ii. 289. 'Camera Stellata.'

⁶ For a further discussion of this class of offence see re *The Attorney-General v. Parre and others*, pp. cxxxii-cxxxiv, *infra*.

of Malmesbury (pp. 118–129), though here, as in other instances, rout, or riot, is alleged; *Kebell v. Vernon* (pp. 130–137) is forcible abduction, a statutory offence, in which, however, riot or rout was also involved; *Halle v. Essex* (pp. 168–178) is a case of disseisin, involving also the offence which Hudson calls ‘embezzling of evidences.’¹ The case of *Whyte v. the Mayor &c. of Gloucester* (pp. 225–226) is a complaint of illegal tolls, contrary to an Act of Parliament. Here, however, there was some statutory colour for the Court’s interference, though it was doubtless founded, in the minds of the judges themselves, upon the ancient prerogative over highways and waterways. Hence Hudson remarks: ‘The opening of passages and maintenance of bridges hath been here enjoined; so was it in the town of Kingston-upon-Hull, 21 Eliz.’² *Butlond and others v. Austen and others* (pp. 262–271) was a complaint of a statutory offence. The case of the Master and Brethren of All Saints, Maidstone, *v. Kempe* (pp. 271–274) is an action of wrongful presentation and trespass. The only possible inference seems to be that in these cases the Court conceived itself as armed with the indeterminate jurisdiction of the Council.

There is one procedure in use in the Star Chamber animadverted upon by both Mill and Hudson, of which no example occurs among these documents. It was known by the name of ‘the proceeding by Ore tenus.’³ Its first step was the apprehension of the defendant by a pursuivant, or messenger, without any information laid against him. This was certainly not to be justified by the Act ‘Pro Camera Stellata,’ which only authorised the issue of process ‘uppon bill or informacion put to the seid Chancellor, for the Kyng or any other, ageyn eny person for eny misbehavyng afore rehersed.’ It was possibly on this account that the rule was ‘strictly held that they must proceed upon confession,’⁴ whereas, as has been seen, the Act, which gave power to examine, was interpreted to authorise examination by interrogatories upon oath. In ‘ore tenus’ he was examined ‘without oath or any compulsory means concerning the fact. If he shall deny the accusation, then cannot the court proceed against him ore tenus.’ This is the kind of power that would naturally be, and was in fact, exercised by the executive. Both Mill and Hudson declare that in the seventeenth century it was employed to ‘a

¹ ‘The embezzling of evidences by slight or covin is here punishable; so was it adjudged in Ratcliff’s case against Tudor, and taking away of a bond of £1,000, sentenced between Stephen and Spencer,

34 Eliz.’ ‘Of the Court of Star Chamber,’ p. 109.

² ‘Of the Court of Star Chamber,’ p. 109.

³ *Ib.* p. 126.

⁴ *Ib.* p. 127.

dangerous excess.’¹ But the use of it, clearly independent of the Act, points to its survival in the Court of the Star Chamber from the ancient practice of the Council.

Until the number and character of the cases heard before the Council prior to the Act of 1487 have been definitely ascertained, it would be premature to assert that the public up to that time generally had recourse to the Common Law Courts, which they thenceforth deserted in favour of a tribunal less costly, less hazardous, and more expeditious. One thing is quite clear, that the Act of 1487 did not overtly provide for cases of private litigation. It may also be that these cases of which we have no more than the plaint were remitted to the Common Law Courts. Wolsey, we are told by Hudson, sent causes arising within the Marches ‘to those courts.’² On the other hand it is doubtful whether where it had compelled the defendant to swear to his answer the Star Chamber would relax its seisin, for if the Elizabethan Council was occasionally jealous of the Star Chamber,³ still more acute was the rivalry, as the history of the Court of Requests has shewn, between the Prerogative Courts and the Courts of Common Law.⁴

The Court of the Star Chamber, following the established practice of the Council in the exercise of its judicial functions, sat in term time. Among the Acts of the Privy Council of 5 Hen. 6 (1426) is one ‘That out of terme tyme no thing be spedd in the counsaile but suche thing as for the goode of the kyng and of his lande asketh necessarie and hastye spede and may not goodeley be abiden unto the terme tyme.’⁵ The prayer in *Culford v. Wotton* is for the issue of letters of privy seal ‘charging him [the defendant] straitlie by the same that he be and personally aper before your grace and your noble counsell at your palace of Westminster at a certain day this terme’ (p. 46). Observant, as always, of the procedure of the Council, the Court of Star Chamber, though habitually sitting in term time, occasionally departed from its rule. Hudson gives one example from the reign of Elizabeth and one from that of James 1, and remarks that ‘the Chancellor of England may determine cases in the court of Chancery in the vacation time as well as in the term.’⁶ The practice had passed into controversy, it being alleged that sitting out of term time implied sitting at the King’s pleasure, which ‘manifesteth it to subsist rather by extraordinary sovereignty than ordinary course.’⁷

There are some indications that in the reign of Henry 7 the

¹ Hudson, p. 127.

² *Ib.* p. 116.

³ See p. lvi, *supra*.

⁴ Selden Society (1898), pp. xxxvi–xlv.

⁵ Nicolas, ‘Proceedings and Ordinances’ &c., iii. 216.

⁶ ‘Of the Court of Star Chamber,’ p. 5.
Ib.

proceedings of the Court of Star Chamber were expeditious. In *Culford v. Wotton* (p. 47) the writ was made returnable on Feb. 9, and the hearing apparently fixed for the last day of the same month (1494). In *Hewyt and others and the Mayor &c. of Exeter against the Mayor &c. of London*, heard in 1500, the plaintiff asks for the dispatch of a serjeant-at-arms to enforce the immediate restitution of the goods detained from him 'orels to appere before your seid lordship to morowe yn the sterre chambre' (p. 72). That case, however, which involved a searching of records, dragged on for at least eighteen months. In *Walterkyn v. Letice* the riotous conduct complained of took place 'vppon Tewesdaie last passed the xxijth daie of this present moneth of Maii,' i.e. 1503 (p. 165). The indorsement is for hearing 'die Martis proxime futuri,' i.e. within a week of the offence (p. 166). In the case of the Abbot and Bailiffs of Shrewsbury two privy seals were issued on or after April 22, 1509, and served on the parties on May 26, 1509 (p. 190). Some time after June 24, 1509, a document praying for an exemplification of a Star Chamber decree was sent up to London. The exemplification arrived and was read at Shrewsbury in public on July 21 following. On that same day a riot took place, on account of which one of the bailiffs of the town was served with a privy seal on July 24 (p. 204), but the second of the two cases between the abbot and bailiffs, which began in the second quarter of 1509, dragged on till the last quarter of 1510, so far as the documents here published shew, though this delay may have been partly due to the illness and death of Robert Rydon, the clerk of the Council (see p. 196, n. 2). In the case of the *Furnivall's Inn* rioters the later riot complained of occurred on May 6, 1507, and the witnesses were interrogated, as the indorsements (p. 245 and p. 250) shew, on May 16. Only in the case of *Kebell v. Vernon* the indorsements run from June 17, 1502 (p. 134), to Nov. 8, 1504 (p. 137), and in this case the delay perhaps arose from a suspense of the proceedings pending the trial of an action at law which we know from other sources to have taken place.

The earliest mention of the Star Chamber *eo nomine* to be found in these documents is in the case of *Hewyt and others v. the Mayor &c. of London*. The bill, filed in 1500, petitions that the defendant may be ordered to appear before the Lord Keeper 'yn the sterre chambre' (p. 72). This is about four years earlier than the first statutory mention of the Court as 'the Lordis of the Kynges honorable Councell in the Sterre Chamber at Westminster' (19 Hen. 7, c. 18). The curious statement called a 'bill' (p. 134), apparently

drawn up by Margaret Kebell herself, was delivered to the defendant's attorney 'in the sterre chambre' by the Lord Chancellor (p. 134). This was in 1502. That the defendant may be summoned to appear 'before your highnes and your most honorable Counseill in the Sterre Chambre at Westmenster' is the prayer of the Abbot of Eynesham (p. 151). This was in 1503, and to the same year belongs the phrase 'the Kynges most honorable Councell in his Starre Chamber,' to which the writs of subpœna issued against William Tytte and others were returnable (p. 162). These phrases recur in the petition of the Mayor &c. of Gloucester in 1504 (p. 209), and in that of Whyte against the same corporation in 1505 (p. 225). The writ of Dedimus Potestatem of Dec. 4, 1504, recites 'coram dominis de consilio nostro in camera stellata apud Westmonasterium' (p. 217). 'In the Kynges Starr Chamber' is the phrase in 1509 in the Abbot of Shrewsbury's case (p. 189), and in the same case in 1510 'in the Sterre Chambre' simply (p. 200). In Grocyn and others *v.* Kempe the plaintiff prays for the appearance of the defendant 'before your good grace and other of your most honarable Councell in the Stere Chaumbre at Westminster' (p. 273). From first to last of these instances it will be seen that Hudson's phrase, which was in common use in his day, 'the Court of Star Chamber,' never appears. That phrase encouraged the idea that the Court was of statutory origin, if, indeed, it did not suggest it. But in the time of Henry 7 it is evident that in the eyes of the litigants and their legal advisers this was a Court of the King and Council sitting in their accustomed place of meeting.

The conclusions derived from this review of the history and practice of the Court of Star Chamber may be briefly summarised as follows :—

1. The Court did not conceive itself as of statutory origin, nor its practice as limited by the statute 'Pro Camera Stellata,' either in respect to its (a) composition or (b) jurisdiction.
2. The forms used by the Court prove that it conceived itself as a Court of the King's Council.
3. The sitting of the King's justices as assessors was not a novelty introduced by the statute 'Pro Camera Stellata,' but was a continuance of the practice of the King's Council sitting judicially in the Star Chamber.
4. The Court of Star Chamber was further reinforced in legal competence by the swearing in as judges of the Court of experts who thenceforth ranked as Consilarii, though not members of the Privy Council.

5. The Privy Council still affected and occasionally exercised a concurrent jurisdiction.

6. This concurrent jurisdiction differed from the jurisdiction of the King's Council in the Star Chamber (a) in the absence of the King's justices and other legal experts (*Jurisconsulti*) as assessors and judges respectively. (b) In the relinquishment of the ancient practice of examining defendants and witnesses upon oath, which, having been long a grievance of the Commons, was disused by the Council, except in certain cases, in 1351 and after the statute '*Pro Camera Stellata*' taken to be confined to the Star Chamber, but to be coextensive with its jurisdiction, express or constructive. Further, this concurrent jurisdiction seems not to have been generally exercised in private suits, and to have passed into increasing desuetude as the Privy Council became absorbed in politics.

7. In the reign of Henry 7, so far as appears from the documents here published, the litigants accepted the Star Chamber's view of its origin, assumed it to be the King's Council, and, notwithstanding the Act '*Pro Camera Stellata*,' to be invested with the indeterminate jurisdiction traditionally possessed by that body, generally conceived of as supplementary to the common and statute law.

8. The primary object of the Act '*Pro Camera Stellata*' was to obtain a statutory sanction for these powers. Henry 7 had before him the Lancastrian precedent of the expired Act of 1453. The enumeration of offences by the Act of 1487 was not by way of limitation, but in order to give a statutory expansion to the powers conceded by Parliament in the earlier Act.

9. This construction of the Act '*Pro Camera Stellata*,' while it does not altogether clear up some of its obscurities, furnishes an explanation of the variations from its provisions practised both by the litigants before it and by the Court itself.

PART II

NOTES ON THE CASES

1. Mayor &c. of Exeter *v.* Stoden and others.—2. Tayllour *v.* Att Well.—3. Prior of Bath *v.* Abbot of St. Augustine's, Canterbury.—4. Powe *v.* Newman.—5. Straunge *v.* Kenaston.—6. Abbot of Eynesham *v.* Sir Robert Harecourt.—7. Abbot of Byland *v.* Warcoppe.—8. Principal &c. of Furnivall's Inn *v.* Johnson and others.—9. Kebell *v.* Vernon.—10. Goryng *v.* Earl of Northumberland.—11. Madeley *v.* Fitzherbert.—12. Grocyn *v.* Kempe.—13. Carter *v.* Abbot of Malmesbury.—14. Culford *v.* Wotton.—15. Walterkyn *v.* Letice.—16. Vale *v.* Broke, Donyngton *v.* Broke, Smyth *v.* Broke.—17. Hobart, A. G., *v.* Parre and others.—18. Tapton *v.* Colsyll.—19. Pynson and others *v.* Squyer and others.—20. The Abbot *v.* the Bailiffs of Shrewsbury.—21. Hewyt and others and Mayor &c. of Exeter *v.* Mayor &c. of London.—22. Couper *v.* Gervaux.—23. Whyte *v.* Mayor &c. of Gloucester.—24. Lead Miners of Yorkshire *v.* Merchants of York.—25. Butlond and others *v.* Austen and others.

Mayor &c.
of Exeter *v.*
Stoden and
others.

THE first two cases printed here undoubtedly never came before the statutory Court of the Star Chamber, among the records of which they have been preserved. The case of the Mayor &c. of Exeter against Stoden (pp. 1–6) is clearly a case heard by King Edward 4 in Council in 1477, although it has been mixed up with the papers belonging to the reign of Henry 8. The address is to the King, and the concluding prayer of the plaint to the King and the lords of his Council. The complaint alleges a riot, which was not a mere form of pleading, but which we know to have actually occurred. The history of this quarrel between the gild and the corporation of Exeter is to be found in Toulmin Smith's 'Early English Gilds,'¹ where the judgement in this case is set out. The judgement was in the nature of a compromise. The scrutiny which the master and wardens of the gild claimed to exercise over the whole city, and which the complainants allege infringed certain ecclesiastical liberties, was limited, but in somewhat ambiguous language. This probably gave rise to the subsequent disputes. The judgement upon this point ran: 'The saide Master, Wardens, and their successors shall make no suche ordy-

¹ Early English Text Society, xii. (1870), pp. 302–312.

naunces, by force of the saide wordes, that shalbe prejudiciall or derogatyve to the lyberties, franchasies, right and lafull customes of the bisshop, Deane and chapter, Mayer, bayliffs and communalte, nor to any of their successors' (ib. p. 305). Searches were similarly limited (ib. p. 307). The disputes continued until in 1482 the charter of 1466 was annulled (ib. p. 311; see Rot. Parl. vi. 219, 220). The gild, nevertheless, continued until 1825 (ib. p. 299; Freeman, 'Exeter,' p. 231).

The companion case of *Tayllour v. Att Well* (pp. 6-15) is sorted among the Star Chamber Records of Henry 7, but internal evidence proves it to belong to the reign of Edward 4, and to be, in fact, also a case before the King's Council. The grounds for arriving at this conclusion are (1) that a bill purporting to be found 'before William Huddesfeld your attorney' is the subject of the plaint. Huddesfeld was Attorney-General to Edward 4, and was displaced by Richard 3 on Aug. 1, 1483, while the Attorney-General nominated by Henry 7 on his accession was William Hody.¹ The year of the indorsement, 'xxviij Nov. anno regni regis xxij,' is, therefore, 1482. (2) The gravamen of the forged bill was concealment of a seizure of contraband on 'the xth day of Auguste the yer of your most noble reyne xxj.' Now if the King had been Henry 7, this would be 1506, whereas Huddesfeld, before whom the alleged bill was supposed to have been found, had died in 1499. Colshill, one of the jury, who had on that hypothesis found it after 1506, had died in 1495, and John Kelly, another of them, in 1486. (3) The signature 'Langport' is that of Richard Langport, clerk of the Council, whose will was proved in 1490.

*Tayllour v.
Att Well.*

The case throws a sidelight upon the struggle of political parties at Exeter during the reign of Edward 4. In my introduction to 'Select Cases in the Court of Requests,'² I have sketched the conflict between the democratic and the oligarchical parties for the control of the City gilds and of the City government. John Att Well, who figures as a defendant in this case, being a member of the oligarchical party, was elected mayor for the fifth time in 1496. Robert Bonyfaunt, a deputy of the plaintiff Tayllour, and his brother, John Bonyfaunt, who does not figure in the Star Chamber case, belonged to the popular party.³ Tayllour probably belonged to the same party, for it appears that Tayllour was a trade name;⁴ and, as we see in this

¹ E. Foss, 'Judges of England,' v. 14.

² Selden Soc. (1898), pp. lxxiii.

³ See Petition of the Mayor and Citizens of Exeter, Select Pleas in the Court of Re-

quests (Selden Soc. 1898), pp. 4, 5.

⁴ Campbell, 'Materials for Hist. of Henry 7,' ii. 454.

volume, the tailors' gild long defied the control of the corporation. Moreover, it is certain that Tayllour was a Yorkist, the party supported by men of democratic sympathies.

The starting-point of this case is perhaps to be found in the Rolls of Parliament for 1478. In that year the Commons preferred a complaint that 'oon John Tayllour, callyng hym Merchaunt of the said Cite of Exetur, by vertue of viij dyvers fegned enformations made in your Eschequer, hath condempned the said John Atwyll, duryng this present Parlement, by the defeaute of aunswere of the said John, in eightscore li., the same John dayly attendyng uppon the same Parliament and not havyng knowelege of the said condempnations.'¹ Atwyll was at this time representing Exeter in Parliament, and the Commons prayed arrest of process by issue of Supersedeas on the ground that the proceedings against him were a breach of privilege. Their request was granted, the suspension of proceedings to continue till the end of that Parliament, i.e. some time in the first six months of 1478. What happened to John Att Well, or Atwyll, after that date we do not precisely know; but since he was afterwards frequently Mayor of Exeter, it may be inferred that the proceedings were more or less ineffective. The manœuvres imputed to him and his brother Philip, which led to the case before the Council here published, were probably by way of retaliation.

It appears that on November 12, 1481, a commission had issued out of the Exchequer to 'William Huddesfeld (Edward 4's Attorney-General), John Speke, esquire, John Hays, gentleman, John Atwyll, merchant, and John Benet, gentleman,' to inquire into concealments of customs and subsidies (see p. 8, n. 8, *infra*). According to the plaintiff, two brothers, John and Philip Att Well, forged a 'bill' alleged to have been found by a jury of the citizens of Exeter against John Tayllour, customer of the ports of Exeter and Dartmouth. The gravamen of the bill was that Tayllour's clerk and deputy, Robert Bonyfaunt, having on August 10, 1481, seized certain canvas and sailcloth to the value of £146 13s. 4*d.* at Topsham, Devon, Tayllour concealed the seizure and appropriated the goods, half of which, as we know from the conditions of the grant of his office (p. 6, n. 2), should have gone to the Crown. This 'bill' was then delivered by John Att Well, the commissioner, to the Attorney-General, with a view to a prosecution of the alleged fraud in the Exchequer. The plaintiff appears to have received early notice of the trick he alleges to have been played, and to have obtained a copy of the 'bill' from the Exchequer with the

¹ Rot. Parl. vi. 191, b, where the year is called 1477, i.e. O.S. The Parliament met January 16, 1478 (N.S.). See C. H. Parry,

'Parliaments and Councils of England' (1839), p. 193.

names of the panel. Armed with this document he visited each juryman, and one and all denied that they had ever found such a bill. At the plaintiff's instance they drew up a 'lettre testimonyall' with their seals, the identity of which was vouched for by the seals of Bishop Courtney and of the mayor of Exeter, repudiating the pretended 'bill.' The 'lettre testimonyall' was laid before the King, no doubt sitting in Council in exercise of his judicial prerogative. The King (Edward 4) remitted the 'lettre testimonyall' to the Mayor and Bailiffs of Exeter for their verification, with orders that, in the event of its proving genuine, John and Philip Att Well should be arrested and imprisoned. Huddesfeld, the Attorney-General, happening to be at the time in Exeter, the King's orders were communicated to him, and with his sanction John Att Well was arrested and confined in the castle. Philip escaped search. The plaintiff, in his petition, states that John 'came out of prison' and went home, which suggests that he was powerfully befriended in Exeter. In his replication he alleges that John 'breke oute of warde.' But it is evident, from the assurance with which the gaoler endeavoured to pacify the mayor when, at the instance of the plaintiff, he became concerned as to the prisoner's safety, that his escape was connived at. However this may be, both the defendants deny the charge that they either forged or altered a bill against the plaintiff, and both maintain the genuineness of the bill impeached. John denies that he broke gaol, a plea which seems to have had some substance to support it; and Philip asserts that, so far from keeping out of the way, he rode off to the King and obtained a discharge for both himself and his brother. It is difficult to know where the truth lies, but we know from the Patent Rolls that Tayllour retained his post till the overthrow of the Yorkist party at Bosworth Field in 1485. On the other hand John Att Well became Mayor of Exeter in 1483, and twice at later dates. This is perhaps not altogether inconsistent with the truth of the plaintiff's statement; for forgery, though a misdemeanour at common law, was not regarded as an offence of high gravity,¹ and political faction may have stifled public conscience.

The subsequent fortunes of John Tayllour are partly disclosed by an Act of Attainder passed in 1491.² This Act recites at length the contents of a treasonable letter received by one 'John Hayes, late of Tiberton in the Countie of Devonshire, gentelman.' It was 'written at Roan in Normandy, by your old accoyntaunce John Tailleur the

¹ J. F. Stephen, 'Hist. of Criminal Law,' iii. 180.

² 7 Hen. 7, c. 22. Convictio Johannis Hayes, Rot. Parl. vi. 454.

elder.' The letter was received by Hayes at Winchester on November 26, 1490, at the hands of one 'William Warde of Topisham.' Hayes was arrested on suspicion and brought before the Council. He then revealed the letter. His name and style and his association with 'John Atte Will' and with the village of Topsham sufficiently identify him with the commissioner of 1481. He had been a servant of George, Duke of Clarence,¹ who had been put to death on February 18, 1478. John Tayllour had also been a servant of Clarence, and had been mentioned in the Act of Attainder passed against Clarence in 1478 as having been entrusted by his master with the duty of conveying Edward, Earl of Warwick, the duke's eldest son, into Ireland beyond the reach of Edward 4. Notwithstanding this, he was taken into the King's service and employed in offices of trust in connexion with the administration of the estates of Clarence's youthful heir. This and a number of other grants² sufficiently identify him with John Tayllour 'the elder' of 1491, who in 1482 had been known as John Tayllour the younger, merchant of Exeter,³ the Christian name of 'John' being presumably handed on from father to son, as in the case of the three John Goryngs.⁴ It is not surprising to find that John Tayllour, having been evicted from his offices after Bosworth,² was become 'a rebell & traitour, being in Normandy in the service of your [Henry.7's] auncien enemye of Fraunce.'¹ He was organising a conspiracy in favour of Warwick, then a close prisoner in the Tower of London. His correspondent John Hayes had been treated by Edward 4 in the same generous spirit as had Tayllour himself. Hayes had received on November 21, 1478, a grant for life of the office of receiver of the lordship and manor of Tyverton and all other lordships, manors, and lands in the counties of Cornwall, Devon, Somerset, Dorset, Wilts, and Southampton forfeited by the duke, and of the office of the custody of the castle or manor of Tyverton &c.⁵ On February 11, 1480, he obtained further similar grants during the minority of the Earl of Warwick.⁶ Of these grants the most important were confirmed by Richard 3.⁷ He was, therefore, naturally well affected to the cause of Warwick. So much confidence was reposed in him by Tayllour that he was asked in the letter to concert with others the place of landing for a French army of invasion promised in support

¹ 7 Hen. 7, c. 22. *Convictio Johannis Hayes*, Rot. Parl. vi. 454.

² See p. 6, n. 2, *infra*.

³ Cal. of Pat. Rolls, 21 Edw. 4, pt. i. February 10, 1482, p. 262.

⁴ See p. 95, n. 2, *infra*.

⁵ November 21, 1478, Cal. of Pat. Rolls,

18 Ed. 4, pt. ii. m. 19, p. 128; ib. 18 Ed. 4, January 26, 1479, p. 154.

⁶ ib. 19 Ed. 4, m. 7, p. 176. Cp. February 13, 1482, 21 Ed. 4, m. 3, p. 261; February 15, 1483, 22 Ed. 4, m. 16, p. 336.

⁷ Cal. of Pat. Rolls, February 30 (sic), 1484, 1 Ric. 3, pt. iv. p. 433.

of Warwick's claim. To do this the better, he was invited to go to France, 'or ellis send Maister John Atte Will whom ye well trust and y also if ys (? ye) aunswere for him.' This expression seems to indicate that Att Well was at this time trimming to the Yorkists, as his nomination by Richard 3 on July 15, 1484, upon a commission to inquire into treasons &c. committed by James Newenham and others perhaps indicates.¹ However this may be, Tayllour evidently harboured distrust of his ancient enemy, whose interest in the house of Clarence is not apparent. Hayes was likewise exhorted to bring Isabel, Duchess of Clarence, Warwick's mother, into communication with the King of France for the furtherance of the plot. The intermediary between Tayllour and Hayes was one 'William Warde of Topisham,' perhaps the 'yeoman of the counting-house of the household' and custodian of the gatehouse of Westminster Palace under Edward 4.² Why Hayes should have taken part in the plot, except from the sentiment of party loyalty, it is not easy to explain, since he had hastened to make his peace with Henry 7. Within a month of Bosworth he had obtained from him a confirmation of the grants of Edward 4 and Richard 3,³ followed by fresh grants on December 6 and 10, 1485,⁴ and February 17, 1486,⁵ May 31, 1486.⁶ From this it may be inferred that he was one of those who had deserted the cause of Richard. The published materials of the reign of Henry 7 do not shew whether he was subsequently dispossessed of these grants; but as the Act of Attainder describes him as 'late of Tiverton,' it would seem that he was so. This would account for the trust reposed in him by the conspirators. Who revealed the complicity of Hayes does not appear, possibly John Att Well, who became mayor of Exeter for the fourth time in 1492. The conspiracy never came to a head. Hayes was confined for misprision until he had made fine and ransom to the King, which, since most of his property was confiscated by the Act, was presumably for life.⁷ John Tayllour disappears from history.

Of three other cases which may be linked with a time anterior to 1487, one, the Prior of Bath against the Abbot of St. Augustine's, Canterbury (p. 20), was originally brought before Richard 3 in

Bath, Prior
of, v. St.
Augustine's,
Canterbury,
Abbot of.

¹ He was mayor of Exeter at the time. Cal. of Pat. Rolls, 2 Ric. 3, pt. i. m. 11, d, p. 493.

² See p. 1, ib. January 15, 1476, 16 Ed. 4, pt. ii. m. 26.

³ W. Campbell, 'Materials,' &c. i. 20, 189; September 20, 1485; November 30, 1485.

⁴ Ib. 198, 211.

⁵ Ib. 296. See also p. 309.

⁶ Ib. p. 445.

⁷ The proviso limiting his forfeitures to grants by Henry 7, his mother, and Courtney, bishop of Exeter perhaps preserved to him the means for procuring his discharge from custody.

Council; a second, *Parker v. the Duke of Suffolk* (p. 15), perhaps came before Henry 7 in Council prior to the Act 'Pro Camera Stellata' of 1487; a third, *Straunge v. Kenaston* (p. 274), can trace a sort of pedigree to the Council of Edward 4.¹

The litigation between the prior of Bath and the mitred Abbot of St. Augustine's, Canterbury, appears to have been protracted during some five years, in the course of which the statutory organisation of the Star Chamber took place. It was begun in the reign of Richard 3, before the King's Council, some time prior to February 14, 1 Ric. 3 (1484), which is the only date given throughout the case. But here a difficulty arises. According to the answer of the abbot, which took the form of a petition, in order, the prior suggests, to avoid the necessity of filing an affidavit, 'of late a grevous scelaundrouse vntrue fayned and surmysed bill of compleynt' had been brought before the Council by John Cauntlowe, Prior of Bath. According to Dugdale ('Monast.' ii. 260), 'John Dunster occurs as prior in 1406. He died on February 6, 1412.' This is clearly not the prior who became Abbot of St. Augustine's, and who is represented in these documents as being the immediate predecessor of Prior Cauntlowe. Dunster was a place-name, probably assumed on profession, as we have grounds in these papers for inferring to have been the case with Abbot John Dunster. All that Dugdale knows of John Cauntlowe's predecessor is that 'Richard, prior of Bath, is stated to have been present at the baptism of Richard, son to George, duke of Clarence, at Tewkesbury, October 7, 1476.' He continues: 'John Cantlowe was made prior in 1489.' It is obvious that there is time between 1476 and 1484, when the list of Abbot John Dunster's depredations was drawn up, for the tenure of the priory by him. On the authority of these documents, therefore, we may insert him after Prior 'Richard.' Dugdale appears to have been ignorant as to the precise date at which John Dunster was elected Abbot of St. Augustine's, but as Abbot William Sellyng² died in 1480 (Dugd. i. 123), and the list of depredations is dated February 14, 1484, at which date Dunster is already abbot, it is probable that it was in 1480 or 1481. But the last bill against Abbot Dunster is expressly stated in his petition to have been filed by Prior Cauntlowe, and the document dated February 14, 1484, cannot possibly have preceded it, being in the nature of

¹ See pp. lxi-lxiv, supra.

² This is not William Selling, the Greek scholar, twenty-two years Prior of Christ Church, Canterbury, whose epitaph is given by J. Weever, 'Ancient Funerall

Monuments' (1631), p. 237. This is an example of the confusion likely to arise from the practice of adopting place-names on ordination and profession. This W. S. died in 1494.

particulars. It follows, therefore, that Dugdale, who gives no authority for his statement, must be wrong in his date of 1489 as the year of Prior Cauntlowe's election, and that it must have been before 1484, and probably on the resignation of Dunster in 1480 or 1481.

The date, 1484, shows that the allegation of Abbot Dunster that Prior Cauntlowe's original petition, which has been lost, was addressed to the Council, is not to be taken as meaning the Council in the statutory Court of Star Chamber as formed by Henry 7. The case is, indeed, a link between the court of prerogative and the court of statute.

In strict chronological order the document lettered 'D' should perhaps be placed first. It is obviously a fragment, being, so far as it goes, a translation into English of the curious Latin document 'C.' 'D' is undated. The date of 'C' is 1484. Probably 'D' was written at the same time. Neither document is the original bill preferred before the Council by the prior. But it is not unlikely that 'D' was an exhibit filed with the original and lost bill. Its Latin equivalent 'C,' with its form of exordium, of which similar examples may be seen in Gibson's 'Codex,' looks as though it were intended for the bishop,¹ though, on the other hand, it was a common form of clerical deed-poll. As both are subsidiary documents I have printed them after the replication of the prior to which they refer. That document 'A,' an answer in the form of a petition, is later than 1487 appears from its reference to the statutory constitution of the Star Chamber, since there is no other statute to which its contentions relate.

A curious constitutional question, already adverted to, is raised in the pleadings. The first document of the suit recites that a 'bill and compleynt hath bene and yet is pursuyd ayenst youre saide oratour before the lordes of youre moost honourable counsell' by the Prior of Bath. On this the statute of 1368, 42 Ed. 3, c. 3, is cited, which expressly provided that accusers shall not be at liberty to summon persons before the Council by writ, but 'that no man be put to answer without presentment before justices or matter of record or by due process and writ original according to the old law of the land.' The statute is recited to have been passed at the express instance of the Commons. It was not the first of its kind. A petition was addressed by the Commons to the Crown in 1347 that henceforth no persons 'par suggestion ou certification d'ascunes Acusours volentrinement' should be brought by writ (par Brief) before the King's Council and fined.

¹ The cathedral priories were subject to episcopal jurisdiction unless in enjoyment of papal exemption. See F. A. Gas-

quet, 'Henry 8 and the English Monasteries' (2nd ed. 1888), i. 36, n.

The King's answer was equivocal. Such things should not henceforth be done against reason (*contre reson*).¹ In 1351 the Commons strengthened their petition by an allusion to the 39th clause of Magna Carta, 'que nul franc homme ne soit mys a respondre de son franc tenement,' nor of any matter which touched life or limb, nor be fined or ransomed 'par apposailles'² before the King's Council or before his Ministers, but only by the accustomed law of the land (*Rot. Parl. ii. 228, a*). The objection urged was the practice, also used in ecclesiastical courts, of proving a case against a defendant by means of fishing interrogatories *vivâz voce*. The King's response granted the petition as to civil procedure, but reserved the prerogative in cases of crime &c. (see p. lvi, *supra*). This reservation being unsatisfactory, the Commons in 1352 expressly founded their petition on the Great Charter,³ by which it was ordained 'that no one shall be imprisoned, nor put out of his freehold, nor of his franchises, nor free customs unless it be by the law of the land.' The statute which followed, therefore, enacted that 'from henceforth none should be taken by petition or suggestion made to our lord the king or to his Council, unless it be by indictment or presentment of good and lawful people of the same neighbourhood where such deeds were done in due manner or by process made by writ original at the common law; nor that none be ousted by his franchises, nor of his freeholds, unless he be duly brought into answer and forejudged of the same by the course of the law' (25 Ed. 3, st. 5, c. 4). But it is apparent that the King's Council could not resist the temptation to assert its authority whenever complainants came before it. The Commons, therefore, next endeavoured to discourage prosecutions by enjoining the exaction of surety 'to pursue their informations (*a poursuire leurs suggestions*)' (37 Ed. 3, c. 18, 1363). In the following year (1364) they added the condition that failure to prove his case should be visited on the prosecutor by damages to the accused and by fine and ransom to the King (38 Ed. 3, st. 1, c. 9). Nevertheless the mischief continued so rife that in 1368 the Commons complain that many are ruined and destroyed (*anientiz & destruitz*) by false accusers. The outcome of this was the statute to which the defendant in the Star Chamber now appealed. 'It is assented and accorded, for the good govern-

¹ This protest is not noticed by Palgrave. It is *Rot. Parl. ii. 168, a*.

² Palgrave translates this (p. 35) 'informations.' But the word in use for 'information' was 'suggestion.' The word does not appear in Kelham nor Littré, but

the English equivalent 'apposal' means 'vivâ voce examination.' See J. A. H. Murray, 'Eng. Dict.' s.v.

³ Item, Comey soit contenu en la Grande Chartre des Fraunchises d'Engleterre &c. *Rot. Parl. ii. 239, b*.

ance of the Commons, that no man be put to answer without presentment before justices &c.' (42 Ed. 3, c. 3).

Palgrave¹ has sketched, and the Rolls of Parliament give in detail, the incessant attempts of the Commons during the reigns of Richard 2, Henry 5, and Henry 6 to enforce statutory restraints upon the judicial authority of the Council. It will be sufficient here to call attention to a petition put forward by them in 1421.² It begins by reciting that divers statutes are in existence forbidding that any of the lieges 'should be summoned to answer unless by writ original and due process according to the law of the land; yet so it is that divers of the lieges of our sovereign lord are made to come before his Council and his Chancellor by letters of Privy Seal and writs sub pena against the provisions and ordinances aforesaid.' The Commons therefore prayed 'that no such letters nor writs be granted thenceforth, and if any such letters or writs be granted and it may appear by the declaration of the plaintiff that his action is at the common law, that the defendant be admitted to take exception to the jurisdiction of the court and to say that the plaintiff has remedy sufficient for him at the common law in his case and that this exception be allowed to him and he be on this dismissed out of court.' The King returned an evasive answer and no statute followed. In 1426 the lords of the Council themselves passed an ordinance 'that all the Billes that comprehend matiers terminable atte the Common Lawe be remitted there to be determined.'³ This ordinance was incorporated in a statute passed in 1453, chiefly to repress the excesses of the nobles, for putting down contempts to the King's writs. Where such contempt had taken place the Chancellor was empowered to summon the offenders before the Council; but a proviso was added, 'That no matter determinable by the law of this realm shall be by this Act determined in any other form than after the course of the same law in the King's Courts having the determination of the same law.'⁴

In the second place, the abbot pleads in demurrer to the bill, that the statutory jurisdiction of the Court of Star Chamber, which he does not mention by name, founded upon riot and unlawful assembly, or was intended to be invoked in cases of 'great and grevouse pouertee.' The first part of this demurrer we are destined to meet elsewhere in the case of *Halle v. Essex*. If it relates to the statutory Court it is difficult to know upon what ground it rested except on a

¹ Sir F. Palgrave, 'Essay upon the Original Authority of the King's Council.'

² Rot. Parl. iv. 156, a.

³ Rot. Parl. v. 407, b.

⁴ 31 Hen. 6, c. 2. The Act was limited to seven years.

general impression that, as a matter of fact, the statutory Court was specially destined for the repression of acts of violence. The abbot uses the word 'present' parliament, as though the Houses were yet sitting, in which case his counsel may not have seen a copy of the Act. Coke (4 Inst. p. 63) summarises the objects of the statutory jurisdiction of the Star Chamber as including cases of 'oppression and other exorbitant offences of great men, bribery, extortion, maintenance, champerty, imbracery, forgery, perjury, dispenses of false and dangerous rumours, news, and scandalous libelling, false and partial misdemeanours of sherifs and bailifs of liberties, frauds, deceits, great and horrible riots, routs and unlawfull assemblies, single combats, challenges, duels and other hainous and extraordinary offences and misdemeanours.' It may be said that this catalogue was largely composed of later deductions from the Act of Henry 7, but 'embraceries' and 'untrue demeanings of sheriffs' are undoubtedly included nomination as within that statute, and are not necessarily accompanied by riots. It seems to follow that the demurrer was bad, and this the subsequent practice of the Star Chamber indicates was the judgement of the Court.

The other half of this portion of the demurrer appears similarly to have been drawn upon a general impression formed upon an Act of which no copy had yet appeared. It recalls certain ordinances of Council of the time of Henry 6 (see A, p. 21, n. 9) and also the 'Acte to admytt such persons as are poore to sue in formâ pauperis' (11 Hen. 7, c. 12). This Act, however, passed in 1495, is undoubtedly later. The Parliament which passed the Act for the Star Chamber met on November 9, 1487.¹ From the number and importance of the Acts passed by it, we may infer that it sat after Christmas. There is no record of the date of its dissolution. The next Parliament met on January 13, 1489.² We may therefore infer that the date of the abbot's plea A is the early part of 1488, before the statutes of 1487 had appeared in print.

The list of the acts of waste committed by the outgoing prior raises interesting points as to the agricultural economy of the religious houses at this period. I have been at the pains to transcribe in the notes the computus of 1540 in respect of each of the manors mentioned as having been subjected to waste by the prior. Besides these there are some eleven other manors belonging to the house of which no mention in this connexion is made. It might be unsafe to con-

¹ Campbell, 'Mat.' ii. 189.

² C. H. Parry, 'Parliaments and Councils of England' (1839), p. 196.

clude that these last were farmed by yearly tenants or lessees for terms. But the list of acts of waste, which in all cases represent a diminution of the number of live stock in the several manors, points to one of two things. Either the manors on which the waste occurred were actually farmed by the monks themselves, or the abbey let these estates on the antiquated land and stock lease system. Thorold Rogers states¹ that this system was 'generally' abandoned about the beginning of the fifteenth century; but that New College, Oxford, did 'not get out of the land and stock leasing till a considerable time beyond the middle of that century.' The 'Firma Gregis' in the instance of the manor of North Stoke (p. 31, n. 39) and, presumably, the 'Redditus Mobilium' of South Stoke, Combe, Preston, and Corston (p. 30, nn. 35, 6, 7, 8), coupled with the allegations of this document, seem to indicate that the land and stock lease survived on the estates of Bath Abbey at this time and down to the Dissolution. If so, it follows either that the leases of stock were for short terms only, so that the prior was able to sell off some portion of it before entering into a new agreement, or that a number of leases chanced to fall in during his tenure of office. Had the abbey been farming its own land, there would have been no occasion to distinguish between that part of the revenue which was derived from stock and that derived otherwise.

Another interesting feature of monastic economy appears in the abbot's financial administration. The religious houses were the banks of the middle ages. It was forbidden by the canon law, alike to ecclesiastics and laymen, to lend money upon usury, that is, upon interest. The successive refinements of casuistry by which this prohibition, at first absolute, became gradually whittled away may be regarded either as indicative of the capacity of the Church to adapt itself to change of its environment, or as an instructive commentary on the doctrine of Papal infallibility. A way was found out of the difficulty, even during the time, prior to the twelfth century, when the veto of the Church was most uncompromising. This was by the creation of rent charges, so commonly in use by ecclesiastical corporations as to receive the name of *census ecclesiasticus*. The practice, indeed, at first conformed itself to the authorised doctrine. The most ancient type of rent charge and the ideal type in the view of the canonists was that by which the purchaser of the rent charge received the right to take the produce of a specified area of land. From this type were deduced certain characteristics essential to the

¹ 'Hist. Ag. and Prices,' i. 25.

canonical legitimacy of transactions of this nature. A rent charge should arise out of realty, and not out of other productive objects, and the realty charged must be really productive. It inevitably followed that as soon as a money economy prevailed rent charges in kind disappeared before rent charges in cash. Both parties to the contract found their account. The lender in effect obtained an interest on his capital, the landowner the means for improving his cultivation.

The link between the new method and the old was the *census reservativus*, by which the land was actually handed over to the owner of the charge. Externally this resembled a mortgage, the canonists' distinction being that in a mortgage the mortgagee was bound to reckon the produce against the capital advanced by him, if he were to avoid the guilt of usury. The Abbot of St. Augustine's, Canterbury, whose transactions while Prior of Bath are impeached, not on account of their canonical invalidity, but for alleged malversation, appears, doubtless at the solicitation of the lay mortgagee, to have transgressed the canonical limitations already laid down by the Summists of the thirteenth century. He is charged (p. 27) with having mortgaged the manor of Chelworth in Somerset, the property of the house, to one John Chaney, and in addition to the produce to which, *ex vi termini*, the mortgagee was entitled, he covenanted, in the name of the priory, to pay to him and his son 26*s.* 8*d.* (two marks) during their lives. Where a lender did not desire to farm himself the land remained in the possession of the obligor, subject to the rent charge agreed upon. This received the name of *census constitutivus*. It followed naturally that the lender began to stipulate for the wider security of the whole of the lands of the obligor. This extension of the system obviously assimilated it to the lending of money upon interest, provoking the hostility of the severer canonists, and, at a later date, evoking the condemnation of Luther. Plainly, where, as in the case of religious corporations, the security was first-rate, the right to receive the rent charge was easily convertible into money. The return to the investment would then vary, not according to the produce of an imaginary piece of land, but according to the amount of the capital expended on its purchase.

The greater number of the rent charges created by the Prior of Bath were in the nature of a *census constitutivus*. But of this there were two classes. There was the rent charge in perpetuity and the rent charge payable for lives. Of these the first resembles the type universally approved by the canonists, that of a right to receive the produce of a specified piece of land; the second comes perilously near

lending money upon interest. Before this date, however, it had received the approval of Laurentius de Rudolfis, a canonist of authority who wrote in the opening years of the fifteenth century.

In creating three of these, as well as three of the former class, the prior therefore was not liable to ecclesiastical censure. Naturally the price of a perpetual rent charge was higher, though the difference in the terms between the first of these, which was fifty years' purchase, and the third at $26\frac{2}{3}$ years' purchase, was so great as to suggest that these transactions were not frequent and were settled rather by bargaining than by custom.¹ From the point of view of the forbidden thing, interest, the perpetual rent charges paid the investors 2*l.* per cent., 3*l.* per cent., and between 3*l.* and 4*l.* per cent. In the case of the only rent charge of the terminable class, of which the conditions are free from incalculable complications, the annuity of ten marks purchased for 210 marks, or twenty-one years' purchase, yielded a return of nearly five per cent.²

Among other receipts alleged to have been appropriated by the former prior to his own use were 183*l.* 6*s.* 8*d.* for the grants of corodies. It is remarkable that while grants of corodies by religious houses seem to have been a universal custom, they nevertheless lay under ecclesiastical prohibition. In 1268 Cardinal Ottoboni, Papal legate, and the General Council of Lambeth passed a constitution (xlvi.iii.) '*quod nulli religiosi vendant vel assignent aliis liberationes*' (corodies). The ground of the prohibition certainly touched the present case. The constitution sets out that the income of the religious houses was thereby diminished, while the purchase money was appropriated by their superiors.³

Another case, which had its inception elsewhere than before the statutory court of the Star Chamber, is the case of Powe and another *v.* Newman (p. 227), interesting as illustrating the history of the ancient archiepiscopal Court of Audience. This Court was the ecclesiastical counterpart of the King's Court of Requests. Archbishop Parker⁴ describes it as '*domestica pene et familiaris Archiepiscopi curia*.' He expressly tells us that its two judges, each of whom

Powe *v.*
Newman.

¹ Qu. how far these terms were open to ecclesiastical censure, as being in contravention of an Extravagant of Martin 5, in 1425, limiting the price of perpetual rent charges to ten to fourteen years' purchase? See W. Endemann, '*Studien in der romanisch-kanonistischen Wirthschafts- und Rechtslehre*' (Berlin, 1883), ii. 111, 112.

² P. 27. For a number of casuistical

problems associated with these forms of rent charge see *id.* ii. 137, foll.

³ D. Wilkins, '*Concilia*' (1737), ii. 17. An example of a corody is printed in F. A. Gasquet, '*Henry 8 and the English Monasteries*' (1889), ii. App. ii. p. 531.

⁴ '*De Antiquitate Britannicæ Ecclesiæ*' (1572), p. 46.

enjoyed the title of '*Curiae Audientiae Cantuariensis causarum et negotiorum Auditor*,' accompanied the Archbishop in his Visitations ('*eum ubique sequuti sunt*'), as Masters of Requests did the sovereign. But, like the Court of Requests, it would seem that at some time prior to the archiepiscopate of Warham, the Court was fixed at Lambeth. The title '*causarum Auditor*' and the regulations issued by Warham show that at that date (1507) the Court took cognisance of litigation; a fact further attested by this case. Warham's regulations are printed in Wilkins's '*Concilia*' (1737), iii. 650, as '*Statuta et Ordinationes domini Willielmi Warham archiepiscopi Cantuariensis in curia audientiae apud Lambeth edita et publicata tertio die mensis Februarii, anno Domini MDVII. et ejusdem translationis anno quinto de consensu omnium advocatorum et procuratorum ejusdem curiae.*' In these statutes Warham made provision for the gratuitous and speedy hearing of poor men's causes and their representation by advocates of the Court. Two of the clauses are described as '*pro communi litigantium utilitate*,' and limitations of time are prescribed for the delivery of the litigants' pleadings.

According to Lyndwood, the Court of Audience was not a jurisdiction belonging to the Primate as archbishop, but as '*legatus natus*,' there being no mention of an archiepiscopal Court of Audience in the canon law.¹ After the renunciation of Papal supremacy in 1536 by the '*Acte extynguysshing the auctoryte of the Busshop of Rome*' (28 Hen. 8, c. 10) exception was taken upon this ground to the continuance of the Court under Cranmer. According to Strype, this was a vexatious manœuvre of the conservative clergy directed by Gardiner, Bishop of Winchester. Besides the technical objection to Cranmer's jurisdiction, they urged the more substantial ground that '*every man must, by virtue of that court, be forced up to London from the farthest part of the land, for a slanderous word, or a trifle.*'² Cranmer replied that he held the Court by authority of Parliament under the proviso of the seventeenth section of the Act 25 Hen. 8, c. 19 ('*An Acte for the submission of the Clergie to the Kynges Majestie*'). The section in question provides that '*this acte or any thynge therein conteyned shall not hereafter be taken nor expounded to the derogacion or takyng away of any grauntes or confirmacions of any liberties privyleges or jurisdiction of any Monasteries, Abbeys Prioryes or other Houses or places exempte whiche here to*

¹ See E. Gibson, '*Codex Juris Ecclesiastici*' (Oxford, 1761), ii. 1005, n.l.

² J. Strype, '*Memorials of Cranmer*' (Oxford, 1840), i. 56.

fore the makynge of this acte hath byn obteyned at the See of Rome or by auctoritie therof.' The weakness of this defence did not escape the acute controversialists on the other side. They also renewed the utilitarian argument. 'Consideryng,' they urged, 'that the Bishop of Canterbury besyde all the Courts within hys own Diocesse, kepith in London a Courte at the Arches, suffieyently authorized to hier and to determine all causes and complayntes ap-perteynyng to a Metropolitane; why should he require this other Court of his Audience, to kepe yt in London, within the Church and jurisdiction of an other Bishshop except he mynded to call other Bishops obedientiary out of their jurisdiction, contrarie to the Act? Or else at the lest, forasmuch as this Courte is kept within the Church and jurisdiction of London, and thArches Courte within the city, but not within the jurisdiction, if he may not vexe the Citezens and Diocesanes of London at thArches without an Appele first from hys Ordinary ymmediately, because of the Canon Lawes, yet he might pull them to hys Audience at Pauls, as he dyd heretofore by hys Legacie, and yet offende not that Act made anno xxiiij^o that no man shalbe called out of his own Dioces.' ¹

This argument discloses the change already mentioned in the history of the Court of Audience. It had ceased to be ambulatory, and it was no longer held in the archbishop's palace, but in St. Paul's Cathedral. Notwithstanding the force of the objections, both on technical and utilitarian grounds, the King stood by Cranmer, and the Court continued. Nevertheless, it is clear that a change took place, probably associated with its removal to St. Paul's. Archbishop Parker, writing before 1572, states that the Court had jurisdiction over '*omnes Provincialium querelas, causas et appellationes.*' But he goes on to say that the functions of the Auditors and of the Chancellor, to which last official non-contentious business was originally deputed, had long since ('*diu*') been merged, and that the judgements of the Court were pronounced by the Chancellor in St. Paul's Cathedral. As to the disappearance of litigation, Parker, perhaps out of concern for archiepiscopal prerogative, says nothing; and the change is also unnoticed by Coke, who, writing a generation later, says of the Court of Audience that it 'medleth not with any matter between party and party of contentious jurisdiction, but dealeth with matters *pro forma*, as confirmations of bishops, elections, consecrations and the like, and with matters of voluntary jurisdiction, as the granting of the guardianship of the spiritualities *sede vacante* of bishops, admissions and

¹ J. Strype, 'Mem. Cranmer,' ii. 716, Append. xvii.

institutions to benefices, dispensing with banes of matrimony, and such like.¹ That the complaints against the abuses of the Court were not without ground appears from a letter of Archbishop Parker, dated November 20, 1560, addressed to 'Dr. Gale, my Chancellor and Judge of my Court of Audience.' In this letter the Archbishop condemns the conduct of the officials of his Court in encouraging appeals from and issuing inhibitions to the bishops and other ordinaries.² Burn, following Johnson's 'Collection of Ecclesiastical Laws,' mentions the absorption of the Court of Audience by the Court of Arches without assigning any date.³ 'The three great offices of official principal of the archbishop, dean or judge of the peculiars and official of the Audience are and have been for a long time past united in one person, under the general name of dean of the arches, who keepeth his Court in Doctors' Commons Hall.' The fact that, as Parker mentions, the law and practice as well as the advocates and proctors of the Court of Audience and the Court of Arches were the same rendered the amalgamation of the two Courts inevitable. The preamble of a statute to which reference has already been made, passed in 1532 and intituled 'An Acte that no persone shalbe cited oute of the Diocese where he or she dwelleth excepte in certayne cases' (23 Hen. 8, c. 9), illustrates the kind of grievance of which this case of 'Powe and another v. Newman' is probably an example. The Archbishops' Courts of Audience and the Court of Arches were exploited by malevolent persons for the annoyance of their neighbours. Men, their wives and servants, the Act complains, were cited to appear before these Courts 'many tymes to aunswere to surmysed and feyned causes and suites of defamacion, withholding of tithes and such other like causes and matters which have byn sued more for malice and for vexacion than for any juste cause of suite.' The officer serving the citation was styled the Somoner or Apparitor, the last appearing to be the general designation, while 'Summonitor' was that used in the diocese of Canterbury (Cowel, *Interp. sub Summoner*). He is contemptuously described by the Act as a 'light litteratt person.' Having served the citation he returned a certificate to that effect into the Court. In default of appearance the person cited 'hath ben excommunicated' or at the least suspended from all dyvyne service,' this last being a penalty usually inflicted on lay persons. An indispensable preliminary to the removal of these spiritual disabilities was payment of the Court fees 'amountyng to the somme of ij s. or xx d. at the leest.' In addition to this the Apparitor

¹ 4 Inst. c. 74, p. 336.

² J. Strype, 'Life of Matthew Parker' (Oxford, 1821), i. 161. See also *id.* 'Life of

Archbishop Edmund Grindal,' p. 303.

³ 'Ecclesiastical Law,' 9th ed., edited by R. Phillimore (1842), i. [106].

or Summoner exacted twopence a mile for his expenses in travelling from the Court to the place of service. The charges must have been in some cases crushing. The Act, therefore, forbade the practice of citing persons to appear out of the diocese in which they dwelt except for spiritual offences in case of appeal, where the judge showed interest or negligence or where the inferior Court specially requested a determination by the archbishop.

But for the indorsement it might have been supposed that the documents had fallen out of Archbishop Warham's pocket; for the case discloses a contempt of a spiritual Court by the assault and imprisonment of the bearer of its letters of citation. This person was, by the constitutions of the Papal legate, Cardinal Otho (Ottoboni) in 1237, an officer dispatched by the judge of the Ecclesiastical Court, and not, as theretofore, a servant of the adverse litigant.¹ Abuse of his person was clearly a case of contempt of Court, and the draughtsman in pointing out that one of the persons aggrieved was a 'mandatory' of the Court perhaps had in his mind the statutes '*de consistorio de arcibus Londoniarum*' of Archbishop Robert Winchelsey (1295). The forms of contempt therein enumerated are '*in non parendo mandatis, in impediendo quo minus ad mandatarium tempore competenti perveniant, in vituperiis factis partibus vel nunciis mandatoris et in faciendo contra mandata.*' The procedure was a summons for the contempt, and on conviction the reimbursement to the party complaining of his expenses and a fine to the Court. Contumacy was punished by excommunication.² The excommunication being notified to the King, the writ *de excommunicato capiendo*, commonly called a '*significavit*,' issued as follows: '*Rex Vicecomiti Lincoln' salutem. Significavit nobis venerabilis pater H. Lincoln' Episcopus per literas suas patentes quod B. suus parochianus vel suæ diocesis propter suam manifestam contumaciam autoritate ipsius Episcopi ordinaria excommunicatus est, nec se vult per censuram ecclesiasticam justiciari. Quia vero potestas regia sacrosanctæ ecclesiæ in querelis suis deesse non debet, tibi præcipimus quod prædictum B. per corpus suum secundum consuetudinem Angliæ justicies donec sanctæ ecclesiæ tam de contemptu quam de injuria ei illata ab eo fuerit satisfactum. Teste &c.*'³ The provision for dealing with contempts being thus complete, it is difficult to understand upon what principle the Council, whether or not sitting in the

¹ D. Wilkins, '*Concilia*' (1737), i. 655.
Constitutiones Othonis Cardinalis. Const.
 xxvi. *De Citationibus faciendis.*

² *Ib.* p. 209.

³ E. Gibson, *Codex Juris, &c.* (1761), ii. 1055, where the subsequent proceedings in default of a return by the sheriff are set forth.

Star Chamber, took cognisance of the matter. It is conceivable that, the practice being for the King to summon the sheriff 'coram nobis ubicunque &c.' to shew cause in case of default, the Council stretched its jurisdiction by dealing with the offender directly. It may be, of course, that the Council or the Court refused to interfere, but in the absence of the judgements of the Star Chamber this must remain doubtful. Certainly the claims put forward by its panegyrist Hudson, more than a hundred years later, would justify the intervention of the Star Chamber in this case; for he arrogates to it a 'superlative power . . . to take causes from other Courts and punish them here.'¹ He also mentions a case of his own day in which 'the grave archbishops and bishops' removed an ecclesiastical cause to the Star Chamber,² and he lays down the proposition that 'for misdemeanors committed in any court the judges of that court may punish it; so may the court of Star Chamber also.'³

Straunge v.
Kenaston.

The lawlessness of the country gentry at this period is well exemplified in the case of *Straunge v. Kenaston*, the sequel of an hereditary feud, of which mention has already been made. The defendant, Humfrey Kenaston, or Kynaston, of Stokkes, Stokes, or Stockes, has been identified by Mr. H. Hudson, author of the romance 'Wild Humfrey Kynaston,' with the celebrated gentleman-highwayman, the Robin Hood of Shropshire, whose memory yet survives in the neighbourhood of his fastness, the cavern of Nescliffe. 'Wild Humfrey Kynaston,' according to the Harleian Society's pedigree,⁴ was son and heir of Sir Roger Kynaston of Hordley, three miles south-west of Ellesmere, and Morton, three miles south of Oswestry. He is stated by Lloyd⁵ to have been the second son of Sir Roger Kynaston. The documents collected by Mr. Hudson state him to have been the youngest son by a second marriage.⁶ A pedigree is in the possession of the Rev. Walter Kynaston of Hardwick, Salop, to whose kindness in permitting the inspection of his family papers I am anxious to record my obligations. This pedigree, drawn up about the end of the eighteenth century, makes him the second of three sons of Sir Roger Kynaston⁷ by his second wife Elizabeth, sister of Richard Grey, Lord Powis. Sir Roger had no issue by his first wife, Elizabeth Cobham, Lady Straunge,⁸ but by his second wife three sons and six daughters. According to this pedigree the eldest son of Sir Roger was

¹ 'Of the Court of Star Chamber,' p. 115.

² *Ib.* p. 19.

³ *Ib.* p. 117.

⁴ Vol. xvii. p. 37.

⁵ 'History of the Princes of Powys' (1882), iii. 7.

⁶ 'Wild Humfrey Kynaston,' p. 343.

⁷ For the exploits of Sir Roger Kynaston see pp. lxi-lxiv supra.

⁸ Harl. Soc. xxix. ii. 295. G. E. C., 'Complete Peerage,' vii. 274.

Sir Thomas Kynaston of Hordley, knight, Sheriff of Salop in 1507 and 1508, who died leaving no legitimate issue. In this way 'Wild Humfrey' Kynaston became, as the Harleian Society pedigree states, heir to Sir Roger Kynaston. This Humfrey Kynaston is described in Mr. Kynaston's pedigree as of Morton, in the lordship of Knockin, co. Salop. He lived with his mother in Myddle Castle, Salop, and a joint bond in the possession of the Corporation of Shrewsbury given by mother and son for a loan of 20*l.* indicates that they were at one time in pecuniary difficulties (Hudson, p. 346). At some time prior to 1491, in which year he is described in a coroner's indictment as 'late of Nesccliffe,' Humfrey, being outlawed for debt, took refuge 'in the cliff that overhangs Great Nesse, to which he ascended by twenty-four ill-guarded steps with his horse, who stabled in an apartment adjoining his master.'¹ While in this fastness he became a terror to the countryside, indulging in acts of depredation upon the rich and whimsical generosity to the poor, which led to the association of his name with Robin Hood. In 1491 he was indicted for the wilful murder of one John Heughes in the course of an affray in which he was accompanied by his elder brother Thomas and a number of others of all classes—gentry, tradesmen, and labourers—in all about forty persons. The indictment describes him as 'late of Nesscliffe . . . otherwise late of Pole . . . otherwise late of Knockyn,' which shows that he had had no fixed abode or was in hiding. For this crime he received a pardon under the Broad Seal, still preserved at Hardwick, addressed, 'Humfrido Kynaston Armigero seu quocumque alio nomine censeatur.' The pardon is in very wide terms, embracing all possible crimes of violence, but reserving their legal rights to private persons who have cause against him. It is dated May 20, 8 Henry 7 (1493), and countersigned 'Clerk.'² In the 'List of Monies received by Edmund Dudley for the King, 20–23 Hen. 7' is an entry dated January 25, 20 Henry 7 (1505), 'For pardon of Humfrey Kynaston 200 markes' (i.e. 133*l.* 6*s.* 8*d.*).³ The preceding entries appear to show that it was a payment 'for his offence in his shrevaltie.' But at this date no Kynaston had been sheriff since Sir Roger Kynaston in 1471. The payment must have been of some other account; but it remains doubtful whether the payer was the outlaw or a namesake, who, for reasons to be presently given, may be identified with the defendant before the Star Chamber in 1508.

¹ W. Camden, 'Britannia,' ed. R. Gough (1806), iii. 35.

² This can scarcely be John Clerk, Master of the Rolls in 1523, since he only appears

to have graduated B.A. at Cambridge in 1499. See 'Dict. Nat. Biog.'

³ J. S. Burn, 'The Star Chamber' (1870), p. 36, from B. M. Lansd. MSS. 160, f. 320.

According to Gough,¹ who wrote in 1700, 'wild Humfrey's' first wife was a person of an obscure Welsh family. Mr. J. Y. W. Lloyd, the author of the 'Princes of Powis,' gives her name as Jane, daughter of Oliver Lloyd of Llai.² 'I have not heard,' says Gough, 'of any children which wild Humphrey had, but I have heard of much debt that he contracted.' Upon the death of Jane he is stated to have married Elizabeth Meredith.³ The Kynaston pedigree, however, gives the name of his first wife as Mariana, daughter of William ap Griffith ap Robyn, by whom 'wild Humphrey' is there stated to have had a daughter and a son Edward, who died without issue. The same pedigree gives as his second wife Elizabeth, daughter of Meredith ap Howell ap Morrice of Oswestrie, by whom he is said to have left two sons, of whom one, Edward Kynaston of Hordley (1584), married (1) Margaret, daughter of Edward Lloyd of Lwyr-y-mane, and (2) Margaret, daughter of Humphrey Kynaston of Stokes, the defendant before the Star Chamber. This line, according to the Kynaston pedigree, were the ancestors of the Kynastons of Hardwick. But if 'wild Humfrey Kynaston' were the same person as Humfrey Kynaston of Stockes, this would have been a marriage between brother and sister! The defendant before the Star Chamber, Humphrey Kenaston of Stockes, or Stokes, was really the first cousin once removed and contemporary of 'wild Humfrey Kynaston.' The Kynaston pedigree shews him to have been one of a branch of the family settled at Stockes, Stokes, or Stock for some generations, he being the son of Piers Kynaston of Stokes by Margaret, daughter of Edward ap Morgan of Atreley and grandson of John Kynaston of Stockes, brother of Sir Roger Kynaston of Hordley and father of 'wild Humfrey.' It was probably this 'Humfrey Kynaston' (of Stockes) who entered France on June 16, 1513, as one of the two captains of the Shropshire contingent.⁴ An Inquisition post mortem taken at Shrewsbury May 28, 35 Hen. 8 (1543), upon the death of his son George, presents 'that Humfrey Kynaston, father of the said George, was seised of lands in Stock, Elston, Grennyleth and Northwod and other places on 17 Jany. 23 Hen. 7' (1508). Qu. whether he, and not 'wild Humfrey Kynaston,' is not the Humfrey Kynaston whose will dated May 1, 1534, is set out by Hudson (p. 335), and is in possession of the Rev. Walter Kynaston of Hardwick. That testator seems to have been a man of considerable landed estate, and the names of his

¹ 'Antiquities and Memoirs of the Parish of Myddle, Co. Salop,' published in 1834.

² Vol. iii. p. 7.

³ Hudson, p. 346.

⁴ S. P. Dom. Hen. 8, i. 4253.

first and second wives, as recited in the will, are Marian¹ and Ysabella respectively. Moreover, Humfrey Kynaston of Stockes, as being of a younger generation, is more likely to have survived till 1534. It may be added that tradition has it that 'wild Humfrey Kynaston' died in his cave; a corroboration, or possibly the origin, of Gough's sarcastic comment about his debts. Myddle Castle was described by Leland as 'very ruinous.'² According to the plaintiff, her reason for invoking the aid of the Star Chamber was that the outrage alleged against Kenaston had been committed within the jurisdiction of her Court of the March of Ellesmere, and that to try it there would neither be 'semyng nor convenient.' It is probable that her Court would not have been able to execute its sentence. Wales was at this time in a state of rampant anarchy fostered in no small degree by the conflict of jurisdictions. The general scheme of government during the early years of Henry 7's reign was that of his predecessors.³ There was a Council, established in 1478, of Lords Marchers. The administration of justice was entrusted to military men nominated chief justices of North and South Wales respectively. Sir William Stanley, who had received a grant of the former office for life from Richard 3 (November 12, 1483, Pat. Rolls, 1 Ric. 3, i. p. 368), was continued as Justice of North Wales (Pat. Roll, Feb. 2, 1 Hen. 7) and Jasper Tudor, Duke of Bedford, was created Justice of South Wales (ib. Dec. 13, 1 Hen. 7). In 1504 the government was reconstituted under a council of ten, of whom the head, styled Lord President of Wales or of the Council of the Marches of Wales, was William Smyth, Bishop of Lincoln. But side by side with the jurisdiction of this council and in constant rivalry with it ran that of the Lords Marchers. It was the more difficult to restrain in that it was substantially the jurisdiction of the English garrison, founded upon military exigencies and therefore indeterminate. 'There is noe record to be found in the Tower or elsewhere in England of any graunt made to any to be a Lorde Marcher in Wales, or any libertie graunted to any of them as they themselves then and long time after vsed. . . . These lords themselves were forced of necessitye to execute lawes of soueraigne governours over their tenants and people in those straunge countreys and lordships subdued by them, which the kings of England did for policie permitt for a tyme.'⁴ The Lords Marchers were

¹ It is, of course, possible that both the namesakes married a wife Marian; but I incline to think that the Kynaston pedigree borrowed this name from the will, and that the will is wrongly ascribed to 'wild Humfrey.'

² 'Itin.' vii. 32 ed. Hearne, 1745.

³ See Lord Bacon 'On the Jurisdiction of the Marches' ('Works,' ed. Ellis and Spedding, 1859), vii. 588.

⁴ Harl. MS. 141, quoted by J. Y. W. Lloyd, 'History of Powys' (1882), ii. 14.

constantly in dispute with each other and with the central government at Ludlow. The consequences are set forth in the 11th section of the Act 26 Hen. 8, c. 6 (1534) intituled 'An Acte that murders and felonies done or committed within any Lordshippe Marcher in Wales shalbe enquired of at the Sessions holden within the Shere groundes next adioyninge, with many good orders for ministracion of Justice there to be had.' The section runs as follows: 'And where heretofore upon dyvers murders robberyes and felonyes perpetratyd and doone, as well within the Lorde-shippes marchers of Wales as yn other places of Wales withoute the same Lordshippes, the Offenders dyverse tymes flee and escape from the same Lordshippe or other place where suche offence was comyttyed, and have repayred and resorted ynto a nother Lordshippe marcher, and there by the ayde, comfort and favour of the saide Lord of the same Lordshippe or his officer or offycers have bene abydyng and resiaunte, ynto whiche Lordshippes the same Lordes marchers have and doo pretende a custome and pryvylege that none of the Kynges Mynistres or subjectes may entre to pursue, apprehende and attache any suche offender thereunto repayred as aforesaid, by reason wherof the same Offendours wente unpunysht to the anymacyon and encouragyng of other yll dysposed people'¹ &c. Similarly in the Act 27 Hen. 8, c. 26 (1536), 'An Acte for Lawes and Justice to be ministered in Wales in like fourme as it is in this Realme' after an enumeration of the crimes perpetrated in Wales, it is added that 'the said offenders, making their refuge from Lordshippe to Lordshippe, were and contynued without punyshement or correccion.' It will be seen from these recitals that the Lords Marchers claimed the widest powers. In 1599 (M. T. 42 Eliz.) in the hearing of an information laid by Edward Coke, esquire, A—G, against Thomas Cornewall, of Burford, Salop, esquire, the defendant pleaded that prior to the above Act of 1536 'diverse seperales persone fuerunt seisciti de diuersis seperalibus dominiis Marchiarum Anglice Lordships Marchers in Wallia, ac similiter tenuerunt in eisdem regales leges et jurisdictionem tam de vita et membro quam de terris et tenementis et aliis rebus quibuscunque ac potuerunt pardonare ac liberam et plenam potestatem habuerunt per totum predictum tempus cuius contrarii memoria hominum tunc non extitit pardonandi omnes prodictiones feloniam et alia offensa quecunque infra seperalia dominia sua predicta adeo libere et in tam amplis modo et forma prout dominus Rex potuit facere in dominiis suis predictis.' These persons further claimed, according to

¹ The statute proceeds to enact provisions for extradition.

the same document, that 'breve Regis huius Regni Anglie pro tempore existentis non currat in aliquo modo in predicto dominio territorio siue patria Wallie nec in aliquo predictorum dominiorum eiusdem.'¹ There were evident reasons, therefore, besides that of seemliness, why the plaintiff should not endeavour to try the defendant in her own Court.² The case, on the other hand, exhibits the need for the Star Chamber as a tribunal for the enforcement of order by the central power where redress was not to be had from local authority.³

A good example of the persistence of the social disorganisation left by the Wars of the Roses, which it was the special function of the Star Chamber to remedy, is to be found in the case of Miles Salley, Abbot of Eynesham, against his great neighbour, Sir Robert Harecourt of Stanton Harcourt. Even before the outbreak of civil war, the administration of justice had become ineffective. The nobility and rural magnates kept retainers, whose energies found vent in private war, riot, and oppression. To insure their immunity their employers intimidated witnesses, brought 'routs in the presence of the justices,'⁴ corrupted officials, and conspired with the royal representatives in the counties, the sheriffs, to pack juries and defeat justice. The charges made against Sir Robert Harecourt comprised most of those denounced by the statute book as subversive of public order. He was alleged to maintain retainers, to incite to riot, to pervert the process of justice. These were not offences unprovided against by statute before the reign of Henry 7. On the contrary, as has been seen, the character of Henry 7's legislation is not the creation of new offences nor the framing of new prohibitory Acts. It was rather the revival of moribund legality and the construction of an efficient machinery for its enforcement.

Abbot of
Eynesham v.
Harecourt.

In a warlike age and in a society founded upon the relations of

¹ Sir E. Coke, 'A Boke of Entries,' London, 1614, p. 549. Bacon, in his argument 'On the Jurisdiction of the Marches,' says: 'By that statute (27 Hen. 8, c. 26) all the lordships marchers are made shire ground, being either annexed to the ancient counties of Wales or to the ancient counties of England, or erected into new counties and made parcel of the dominion of Wales, and so no more marches after the statute of 27.' 'Works,' vii. 588.

² By the above Act it was provided (§ 9) 'that the Lordshippe of Ellesmere with

the membres of the same shalbe united joyned and knynte to the Hundred of Pymhill as the inhabitauntes of the same Hundred nowe do and use accordinge to the Lawes of this Realme of England.'

³ An interesting monograph, 'The Con-dition of Wales,' forms Appendix II. of Mr. Sidney Lee's edition of the 'Autobiography of Lord Herbert of Cherbury' (1886).

⁴ 18 Ed. 3, st. 1, c. 1 (1344). Cf. 20 Ed. 3, c. 5 (1346), both being statutes against the practice of 'maintenance' of more or less fictitious lawsuits brought by retainers.

protection and dependence, the enlistment of retainers was a natural object of ambition. The country gentleman aped the peer, and in 1377 the Commons, petitioning the Crown for a check to the practice, sarcastically remark that 'diverses gentz de petitiz garisons de terre ou de rent facent graunde mayntenance de quereles et retenues des gentz' (Rot. Parl. iii. 23, a). The impoverishment left by the wars of Edward 3 compelled even esquires to wear the liveries of their wealthier neighbours. The King's response was that there were statutes for dealing with the mischief; but, as though doubtful of this, he adds that there is also the common law. Nevertheless, in accordance with the petition, an Act² was passed denouncing the giving of hats or suits as a livery. The language of the Act suggests that the giving of hats was practised by these pretenders, and it is cited in 7 Hen. 4, c. 14, as 'the statute of the livery of hats.' The justices of assize were ordered to inquire into offences of this class, as well as into the assumption of liveries by fraternities (1 Ric. 2, c. 7). The truth is, as the King's response discloses, that the statutes, which were chiefly directed against 'maintenance,' did not hit the mischief; nor is it easy to see how the common law could be invoked where there was no actual breach of the peace. The commons, emboldened by this success, presently renewed their attack on the nobles. The so-called Act¹ 13 Ric. 2, st. 3, c. 1, sets forth that 'grievous complaint and great clamour hath been made unto Us, as well by the lords spiritual and temporal as by the commons of our realm of great and outrageous oppressions and maintenances made to the damage of Us and of our people in divers parts of the same realm by divers maintainours, instigators, barretors, procurours and embraceours of quarrels and inquests in the country, whereof many are the more encouraged and bold in their maintenance and evil deeds aforesaid because that they be of the retinue of lords and others of our said realm with fees, robes and other liveries called liveries of company.' Accordingly the giving and wearing of liveries was prohibited, except in the case of lay peers, who were allowed to give them to household dependents or to knights and esquires who should engage by indenture to serve them for life. Retainers were to be dismissed. Offenders were punishable at the discretion of the Council. It is clear from a

¹ As it appears in the Statutes of the Realm, ii. 74, it is not an Act but a writ to the Sheriff of Kent, a petition of the Commons in 1389, complaining of its ineffectiveness, treating it rather as an ordinance of the Council, though it uses the

expression of it 'le Roy et les Seigneurs du Parlement ont ordeinez tiel remede' (Rot. Parl. iii. 265, b), and another petition of 1393 (ib. 307, a) distinctly affirms that it was so.

petition of the Commons in 1389¹ that this measure was ineffective, possibly because it lacked full statutory authority. In the same session of 1389 the Commons complained again² that cloth liveries were being given, as though these had taken the place of liveries of hats. An attempt was made to suppress the practice by the issue of letters of Privy Seal to lords and of Writs to the sheriffs.³ The result was that people took to wearing the liveries, not of great lords or country gentlemen, but of fraternities.⁴ These must have been equally serviceable in civil discords, since the members were associated by common interests and common political sympathies. Famous among them was the Fellowship of the White Hart, a body of royal retainers utilised by Richard 2 in his attempt at despotism. In 1397 the Commons again remonstrated with the King for neglecting to enforce the law against the nobles.⁵ It was perhaps a symptom of the growing weakness of the Crown that the Act which followed this petition prohibited all of the degree of yeomen from taking the livery of a lord, though apparently leaving it open to esquires to do so.⁶ That the practice begot oppressions grievous to the Commons is evident from the complaints and pertinacity of the petitions. One of the earliest Acts of the reign of Henry 4, who was anxious at the same time to conciliate the Commons and to curb the power of the great lords, was a drastic measure of prohibition. Temporal lords were forbidden to give any liveries save to their households. Even the King himself was not allowed to give his livery to a yeoman, nor might a yeoman wear it. Liveries of honour given by the King to noble or gentle men might only be worn at Court.⁷ These restrictions on the King's liveries were relaxed in the session of 1401, so far as that peers and bannerets were permitted to wear the King's livery elsewhere than at Court.⁸ But this relaxation was due to the King and not to the Commons, who, mindful of the mischievous activity of 'the White Hart,' had proposed a list of heavy penalties upon infractions of the previous statute.⁹

The rising of Archbishop Scrope in 1405 evidently suggested the statute of the next session¹⁰ which begins by reciting and confirming

¹ See preceding note. The date 1389-1390, assigned by the Statutes of the Realm to the King's writ to the Sheriff of Kent, must be wrong, or the ordinance on which it was based must be of earlier date, for the petition of the Commons in 1389 (Rot. Parl. iii. 265, b) distinctly refers to it.

² Rot. Parl. iii. 266, a.

³ Ib. 307, a.

⁴ Rot. Parl. iii. 266, a.

⁵ Rot. Parl. ib. 339, a.

⁶ 20 Ric. 2, c. 2 (1397).

⁷ 1 Hen. 4, c. 7; Rot. Parl. iii. 428, b. (1399).

⁸ 2 Hen. 4, c. 21.

⁹ Rot. Parl. iii. 478, a.

¹⁰ 7 Hen. 4, c. 14.

the prohibition to prelates as well as to laymen to give liveries passed by the Act of 1399. That the disordered state of the country had caused a recrudescence of the mischief is evident from the language of the Commons' petition. They do not complain of peers, nor of the infraction of 'the Statute of the Livery of Hats'; but they say that, notwithstanding the Act of 1399, knights bannerets, knights and esquires jointly (an important point) and severally give cloth liveries, some to as many as 300, some to 200 followers, some to less and some to more, and that the consequences are homicides, larcenies, murders, felonies, rapes, extortions, oppressions, &c., and that the confederacies of these wrongdoers render enforcement of the law impossible. They recommend that ecclesiastics be punishable for the giving of liveries contrary to law by a fine of 100*l.* and that the receivers of such liveries be fined 40*s.* The King added a fine of 100*s.* to meet the case of knights and esquires, re-enacted the Statute of Hats, and forbade any company other than the town gilds to provide liveries for its members.¹

By a consolidating Act of 1411 the two statutes of 1399 and 1406 were re-enacted and confirmed.² The simplification of the law was presumably attended by an increased vigilance in its enforcement, for shortly after his accession Henry 5 granted a general pardon for all offences against it committed prior to December 8, 1414,³ and the indulgence was extended in 1416.⁴ During the minority of Henry 6 the practice of giving liveries and hats revived, and the Commons complained in 1427 that it was becoming prevalent among knights and persons of less degree. The law, they said, was not enforced because the offenders conspired to prevent their indictment by the grand juries. They urged, therefore, that the justices of assize and the justices of the peace should be authorised either at the suit of the King or of a private person, without indictment found, to issue writs of attachment and distress against the offenders, directed to the sheriffs of their counties, and that in the event of their non-appearance *Capias*⁵ and *Exigent*⁶ should issue as though they had failed to answer to an indictment. Against those who appeared the penalties of the existing statutes were to be enforced. But these proposals for

¹ 7 Hen. 4, c. 14.

² 13 Hen. 4, c. 3.

³ Rot. Parl. iv. 40, b.

⁴ *Ib.* 96, a.

⁵ *Capias ad respondendum*, 'where the sheriff upon the first writ of distress returns, *Nihil habet in balliva sua.*' Cowel, '*Interp.*' s.v. *Capias*.

⁶ 'A writ that lyeth where the defendant in an action personal cannot be found, nor anything in the county whereby he may be attached or distrained; and is directed to the sheriff, to proclaim and call five county-days one after another, charging him to appear under the pain of outlawry.' '*Termes de la Ley*'; Cowel, '*Interp.*' s.v. *Exigent*.

tightening the reins of the central government did not commend themselves to the nobles who were for the time its administrators, and the royal answer confined itself to an empty recommendation of the enforcement of the existing laws.¹ Nevertheless the Commons had their way in the next Parliament (8 Hen. 6, c. 4) (1429), and in 1433 the lords of the Council agreed upon a form of obligation binding themselves not to 'receyve, cherisshe, hold in household ne maynteyne' felons and other criminals.² This oath was in 1433, at the instance of the Commons, imposed on all the lords of Parliament (Rot. Parl. v. 434, b). Upon the accession of Edward 4 in 1461 this obligation took the form of a charge from the King following a preamble to the effect that recent disorders had been much enhanced 'by yevyng of Lyverees and Signes.'³ Seven years later a comprehensive statute was passed for the suppression of the practice. Edward's government had taken the hints of the Commons' petition of 1427, setting forth the reasons of the ineffectiveness of the law. It was not satisfied with re-enacting all the previous statutes and increasing the pecuniary penalty of the receiver of a livery from 40s. to 100s. during 'every month that any such person is so retained.'⁴ The Act of 1468⁵ also struck at the more insidious practice of retaining by oaths, indentures, &c., whereby the object of the laws against liveries was frustrated without exposing the parties to statutory penalties. Such engagements were now brought within the prohibitions against liveries. The Act also opened to the common informer as well the King's Courts of Record as the Courts of the Justices at Quarter Sessions. The King was to be an *ex-officio* party to the suit, and the statutory forfeitures were made divisible between him and the informer.⁶ The co-operation of the commonalty was further assured by granting the power of trying these cases to municipal authorities, not only where offences against the statutes had been committed by the inhabitants, but also where they had been sufferers in consequence of them. In the case of the towns, too, the informer's half was to be equally shared by the corporation for the benefit of the inhabitants. But in 1472 the Speaker, in the name of the Commons, protested against the non-execution of

¹ Rot. Parl. iv. 330, a.

² Rot. Parl. iv. 344, a; ib. 422, a.

³ Ib. 487.

⁴ 8 Ed. 4, c. 2 (1468).

⁵ Dr. Busch, the learned historian of Henry 7, in his account of the statute of 1495, intituled 'An Acte agaynst unlawfull Assemblies and other offences contrary to former Statutes' (11 Hen. 7, c. 3), insists on the introduction in that Act

of the common informer and the action of the justices thereupon as 'revolutionär gegen die Grundlagen der englischen Gerichtsverfassung,' and ascribes it to Henry 7's familiarity with French procedure. Whether borrowed from France or not, this method of dispensing with the jury of indictment long preceded Henry 7, as the above references prove. See W. Busch, 'England unter den Tudors' (Stuttgart, 1892), i. 284.

the statute.¹ It was presumably out of respect for this protest that Edward in the same session passed a special Act enabling his eldest son, Edward, Prince of Wales, to give his livery and sign, the statutes to the contrary notwithstanding.² Again in 1482 the Commons requested enforcement of the Statute of Liveries.³ It is plain that the common informer was too fearful of the retainer's vengeance to be tempted by the prospect of sharing forfeitures.

On the accession of Henry 7 recourse was had to the former device of pledging the offenders to observe the statutes against liveries and maintenance and the harbouring of felons. The oath was first administered to the members of the House of Commons and to the knights and others of the King's household. After their retirement from the hall the lords spiritual and temporal were solemnly sworn to its observance.⁴ But oaths, as before, were only taken to be broken, and the whole machinery of law for dealing with this class of offence had been brought to a standstill. It was clear that no private person could be protected against the consequences of enforcing the statutes. Informations, when laid before justices of the peace, were burked by the justices themselves. The Star Chamber Act of 1487, therefore, reciting among the mischiefs to be dealt with, 'onlawfull mayntenaunces gevyng of lyveres signes and tokyns and retheyndres by endentur promyses other writyng or otherwise, embraciaries of his [the King's] subgettes' &c., provided that upon bill or information laid before the Court of the Star Chamber 'for the kyng or any other' the Court should summon the offender and deal with the case. Another Act of the same session deprived the rural gentry who held offices of profit under the Crown of the luxury of disobeying the laws against liveries in their character of royal officers (3 Hen. 7, c. 12. See p. 139, n. 7, *infra*). That the offence continued is apparent from the statute of 1495, 'De Retentionibus illicitis' (19 Hen. 7, c. 14), passed after the date of the case with which we are now concerned.

Sir Robert Harecourt, the defendant in this case, was also alleged by the complainant to have been the inciter of the riot therein described. Riot, or the breach of the King's peace, was always a misdemeanour at common law. The provocation to it by going armed was forbidden in 1328 by the statute of Northampton (2 Ed. 3, c. 3). The prohibition was probably but little regarded, and the preamble of the statute of Gloucester in 1378 (2 Ric. 2, st. 1, c. 6) gives a graphic account of the excesses of private war throughout the country. The

¹ Rot. Parl. vi. 8.

² 12 Ed. 4, c. 4.

³ Rot. Parl. vi. 198, b.

⁴ Rot. Parl. vi. 288, a.

King was empowered to suppress these practices through the agency of special commissions. Possibly these powers were, in turn, abused, or were distasteful to the magnates, for the Parliament of 1379 revoked them on the express ground that the statute of Northampton was in force (2 Ric. 2, st. 2, c. 2). It was natural that during the disturbed reign of Henry 4 Parliament should make some effort to strengthen the law. In 1411 the duty was laid upon the justices of the peace and sheriffs to come with the power of the county and arrest and summarily convict offenders taken in the act. In cases where the riot was over they were to inquire and try the case within a month, and in the event of their failing to arrive at a conclusion as to the facts were to remit a certificate setting forth 'tout le fait et les circonstances dicelle' to the King's Council. If the accused traversed the matter of the certificate the case was to be tried before the King's Bench. Accused failing to appear were to stand convicted (13 Hen. 4, c. 7). The persecution of the Lollards and their resistance led to fresh riots, which were made a subject of complaint upon the opening of Parliament at Leicester on April 30, 1414 (Rot. Parl. iv. 15, b). Possibly through sympathy with the persecuted, the justices had been slow to exercise their powers. Power was, therefore, given by statute (2 Hen. 5, st. 1, c. 8) to 'the party grieved to apply for a royal commission of inquiry, both into the original riot and into the default of the justices or sheriff, the inquiry to be conducted by a jury impanelled, in cases where the sheriff was in default, by the coroners.' A year's imprisonment was fixed as the minimum penalty for those involved in serious riots, and the fines upon rioters were to be increased. Another statute of the same session (2 Hen. 5, st. 1, c. 9) provided for the attain of such rioters as failed to surrender to justice. These measures were made perpetual by an Act of 1429 (8 Hen. 6, c. 14). The declaration to be taken by lords of the Council &c. against maintenance, liveries, &c. was expressly stated to be for 'eschuyng of riotes, excesses, misgovernance and disobedisance' (1429, Rot. Parl. iv. 344, a. Also in 1433, ib. 421 b, v. 43, 4, b). In 1485 members of Parliament were sworn not to make 'any maintenance, imbracerie, riotts or unlawfull assembleie' (ib. vi. 287, b). But in 1495 it was found necessary, at the instance of the Commons, to pass an elaborate 'Acte agaynst ryotts and unlawfull assemblyes' (11 Hen. 7, c. 7). The preamble recited that, notwithstanding the preventive statutes already existing, 'some persones not dreading God their sovereign lorde ne the punysshment of the lawes made and had in this behalfe ofte tymes aswell, by colour of

suche offices as they have obteyned as Receyvours Stuardes and Bailiffis of Lordships and other offices as by prevy reteyndours by othe promysse covenaut and otherwise and claymyng also dutie of ther tenauntes and servauntes where none suche duties is, to goe with theym when such assemble rioute or route shalbe' &c. The rioters subsequently conceal themselves, being screened from justice by their masters, the principal offenders. It was therefore provided that upon complaint to the justices of the peace, or an indictment of riotous assemblies, the justices of the peace should make proclamation against the principals or leaders to appear at the next general sessions. Defaulters were to stand convicted. The justices of the peace were to try those appearing, and to punish the convicted by imprisonment and fine, besides binding them over to keep the peace. Where the riot was committed by more than forty persons, or 'by the discrecion of the seid justices be thought haynous,' the justices to certify accordingly, and the principal offenders to appear before the King and Council for punishment (see p. 236, n. 7, *infra*). A statute of the same session intituled 'An Acte agaynst unlawfull Assemblies and other offences contrary to former Statutes' (11 Hen. 7, c. 3), meets the difficulty of the unwillingness of jurors, whether caused by intimidation or corruption, to find indictments by empowering justices of assize or of the peace to act 'uppon informacion for the king tofore them to be made.' The statute 'De Retentionibus illicitis' (19 Hen. 7, c. 14) was not passed until 1504, a year after Sir Robert Harecourt's case had come before the Star Chamber.

Among the vexations alleged to have been inflicted by the defendant upon the abbot and monks was one which the statutes shew to have been common in the middle ages when neighbours fell out one with another. This was the bringing of malicious indictments, a weapon still ready to the hand of litigious persons, but seldom resorted to. As the late Mr. Justice Stephen has remarked, 'In this country any one and every one may accuse any one else, behind his back and without giving him notice of his intention to do so, of almost any crime whatever.'¹ In the thirteenth century the subject had been better protected,² for presentments of 'fama publica' were made by a jury of twelve hundredors confirmed by a jury of representatives of the four villis before the defamed man was sent to the ordeal.³ This is perhaps what Stephen means when he says, somewhat

¹ 'Hist. of the Criminal Law' (1883), i. 293.

² For the earlier history of remedies against wrongful prosecution see Pollock

and Maitland, 'Hist. of Eng. Law,' ii. 537.

³ Pollock and Maitland, 'Hist. of Eng. Law,' ii. 641.

loosely, that 'the indictment was originally an accusation presented by the grand jury upon their own knowledge.'¹ He adds: 'This, however, has long ceased to be the case.'² We may, perhaps, fix the period at which the change had been accomplished, which change, as Messrs. Pollock and Maitland observe, can only be known in its details 'when large piles of records have been systematically perused'³ by noting the growing abuses of the new system and the efforts of the legislature to suppress them. Malicious indictment was substantially, though not technically, the offence known in the thirteenth century as malicious 'appeal,' i.e. accusation of felony.⁴ Even though this implied, as a rule, that the appellor must offer battle in person, the malicious appeal became a favourite weapon of legal offence, presumably in the hands of men of superior physical strength. The malicious appellor was the man who had comparatively little or nothing to lose, and who could by this means inflict damage and annoyance, so that in 1285, by the Statute of Westminster the Second (c. 12), malicious appeal was made punishable by a year's imprisonment. This penalty had no terrors for those already in custody and who were induced or compelled, 'for the saving of their lives and by means of divers oppressions and pains which sheriffs and gaolers, in whose custody they are, do cause to them, to approve (appeler) the most rich persons of the county,' the object being by arrest and incarceration of the appellees to extort money from them.⁵ The remedy devised was that the appellee should be admitted to mainprise without fees. But the mischief continued, and in 1326 an action against the sheriffs and gaolers was granted, to be tried in the King's Courts.⁶ This being found ineffective as a deterrent, the offence of the coercive manufacture of appeals was in 1340 made capital against gaolers so acting.⁷ The Crown now relied on the sheriffs to check these abuses of legal procedure for the gratification of private animosities. In 1410 an Act was passed which perhaps discloses the sequel of the Earl of Northumberland's unsuccessful rising in the North in February 1408. It has already been mentioned that inquests originating presentments of 'fama publica' were intended to be by the freeholders and villains of the neighbourhood. These presentments, in the case of felonies, were returned by the sheriffs to the justices in

¹ 'Hist. Crim. Law,' i. 273.

² *Ib.*

³ 'Hist. Eng. Law,' ii. 646.

⁴ Bracton, f. 141: 'Item nullum appellum, nisi fiat mentio de feloniam facta.'

⁵ Ordinances of 1311, 'Statutes of the Realm,' i. 165.

⁶ 1 Ed. 3, st. 1, c. 7.

⁷ I omit the Acts against indictments of judges of Spiritual Courts, these referring to the conflicts of jurisdiction between Church and Crown. See 18 Ed. 3, st. 3, c. 6 (1344); 1 Ric. 2, c. 13.

eyre.¹ Political animosity apparently suggested the abuse of the inquest for the ruin of opponents.² Packed juries were impanelled without any return of them by the sheriffs. These juries made at Westminster presentments upon information laid against a considerable number of persons. The judicial process which followed the indictment does not appear. But the statute passed to suppress the practice uses language which suggests that the justices treated the indictment as equivalent to a conviction.³ Of the accused, 'ascuns furent utlagez devant les ditz justices de record & ascuns fuez al Seintwarie pour treson & ascuns pour felonie.' The indictments were annulled by Act of Parliament,⁴ and it was forbidden to the sheriffs to accept lists of panels from persons other than their own officers. They were also commanded to return all panels of inquests to the justices as a guarantee of their bonâ fide character. All irregular indictments were declared null and void.

But the pertinacity of the malicious prosecutor was not easily balked. The next device was to procure the indictment of persons in conformity with legal process for felonies supposed to have been committed at a non-existent place. It is clear that at this date (1419), and perhaps in 1410, though it is rash to draw an inference where even the form of law was disregarded for the satisfaction of political vengeance, the presenting jury had ceased to represent personal knowledge of the facts. At first this new form of malicious indictment appeared in Lancashire, a straggling county in which, the northern being cut off from the southern portion by the bay of Morecambe, a jury at either end might well be ignorant of the topography of the other. The object, as recited by the statute passed in 1419 for its suppression,⁵ was not only to cause annoyance and expense, but to obtain an opportunity of waylaying the defendants on their road to answer the charge. The defendants, being thereby terrified, entered no appearance to the indictment, upon which a writ of Exigent was directed to the county court, that is, they were summoned at five successive county courts to 'come in to the king's peace' or in default to be outlawed. It does not appear from the Act nor from the petition of the Commons on which it is founded⁶ why a non-existent place should be the venue laid by the offenders. The

¹ See P. and M. 'Hist. of Eng. Law,' i. 546.

² In 1397 the Dispensers had been impeached for procuring false indictments. Rot. Parl. iii. 364.

³ This was the practice in the case of minor offences in the thirteenth century.

See P. and M. 'Hist. Eng. Law,' ii. 649. It may, however, be that the flight to sanctuary was on indictment found and before trial.

⁴ 11 Hen. 4, c. 9.

⁵ 7 Hen. 5, c. 1.

⁶ Rot. Parl. iv. 120.

solution of this may perhaps be sought in the procedure upon the writ of Exigent. The county court had no jurisdiction outside the county. An Exigent would therefore only issue in respect of a case arising in the county, which place it was necessary to specify. But if an existing place in the county were designated, it would become the duty of the sheriff to summon the inquest, that is, the men of the neighbourhood. There being no such place discoverable in the county as that designated, it was presumably open to the sheriff to summon an inquest in any part of the county and to proceed by Exigent in the county court upon the non-appearance of the defendant. Had the place been one in existence in the county, 'fama publica,' as affirmed by the hundredors &c., would have caused the indictment to fail. The offenders were made punishable by imprisonment, fine, and ransom at the discretion of the justices.

In order to check this practice in Lancashire it was provided by the statute of 1419 'that before award of Exigent there should be an inquest held by a jury of twelve freeholders to determine whether the place in which the venue was laid had, in fact, any existence.' That the statute was intended to repress the rancour of the Yorkists may be inferred from two complementary Acts passed in 1421 (9 Hen. 5, st. 1, cc. 1, 2). By the first of these the Act of 1419 was extended to all England, and the persons maliciously indicted were granted writs of conspiracy and a right to damages. By the second it was provided that the defendants' outlawries, even though good in Lancashire, should not be operative in other counties whereby to forfeit their lands and goods elsewhere. An appearance of impartiality is maintained by the provision that this benefit should inure as well to defendants in a suit by the King as in a suit of a party in the county of Lancaster. But there is one significant exception. The county of Chester was a centre of disaffection to the Lancastrian dynasty.¹ In 1399 Henry 4 had passed a penal statute against it, enabling the officers of other counties in which offences had been committed by its inhabitants to follow the offender into Cheshire. For such offences committed elsewhere, even when of no greater gravity 'than battery or other trespass,' the goods and chattels of the offender in Cheshire were forfeited as well as those in the counties in which the offence was committed and elsewhere. Where the offence was a felony forfeiture of lands in all counties was also incurred (1 Hen. 4, c. 18).

¹ Sir J. H. Ramsay, 'Lancaster and York' (1892), i. 59.

This exceptional severity was expressly confirmed by 9 Hen. 5, c. 2 (1421). The confirmatory Act was, however, provisional, being limited to 'the Parliament which shall be first holden after the king's return into England from beyond the sea.' This limitation became a *vexata quæstio* among the lawyers. Henry 5 left England on June 10, 1421, never to return alive, and died on August 31, 1422. His body was, indeed, conveyed to England in the following November; but it was argued that the statute contemplated that the King would return alive, and that the limitation, being based upon a condition which could not be fulfilled, was null and the Act therefore perpetual. That this opinion prevailed may be inferred from the fact that it was not until 1439 that the Act was made perpetual,¹ the preamble reciting that it 'by opinion of some is expired and by the opinion of some not expired' (18 Hen. 6, c. 13).

It has been seen that in 1410 the ingenuity of the malicious indicter had contrived to dispense with the sheriff, the royal official whose duty it was to preserve legal process from the taint of corruption and partiality. The Act of that year had made the return of the jury of inquest by the sheriff indispensable to the legality of indictments. But the packing of juries for the presentment of malicious indictments before the King's Bench still flourished in 1439, when another statute was directed against it. The practice was for a *capias ad respondendum* to issue to the sheriff of Middlesex, returnable within two or four days. The person indicted, being presumably at a distance, failing to appear, an Exigent was awarded by which his goods and chattels were forfeited. To prevent this travesty of justice it was enacted in 1427 that 'writs of *capias* shall be directed, as well to the sheriff or sheriffs of the county wherein they be indicted as to the sheriff or sheriffs of the county whereof they be named in the indictment.' An interval of six weeks was then allowed before the return of the writ within which the person indicted could appear (6 Hen. 6, c. 1). Curiously enough, though the preamble of the Act complains of 'suspect jurors, hired and procured to the same by confederacy and covin,' it makes no direct attempt to purge the panel. The interval, being found too short, was extended in 1429 to a minimum of three months after the issue of the *Capias* to the sheriff of the county in which the defendant dwelt. An action

¹ Subject to an obscure qualification 'to endure till the next parliament and so forth for ever; if so be that betwixt this and the same next parliament no such inconvenience happen in this behalf, for the

which it shall seem to the king and the lords of the parliament at this (v. l. saide now) time that it shall not be expedient this ordinance to endure longer after the same next Parliament.'

on the case, with treble damages against the procurer of the malicious indictment, was given to the person aggrieved (8 Hen. 6, c. 10).

The paralysis of sovereign authority during the Wars of the Roses once more disclosed itself in the lawless proceedings of the sheriffs. Indictments were 'affirmed by jurors having no conscience, nor any freehold and little goods,' as well as by the servants and bailiffs of the sheriffs themselves, in the Sheriffs' Tourns. These indictments found, the defendants were arrested and imprisoned by the sheriffs for purposes of extortion. 'After which fines, ransoms, and amerciaments so rated and revised by the said sheriffs, under sheriffs, clerks, bailiffs and their ministers, the people aforesaid be enlarged out of prison and the said indictments and presentments be imbeziled and withdrawn.'¹ By the Act passed in 1461, immediately after the restoration of peace by the accession of Edward 4, sheriffs were ordered to deliver to justices of the peace in sessions indictments taken in their tourn. The justices then awarded process, levied fines, &c. A sheriff arresting or fining persons without process from the sessions was punishable by a fine of 100*l*.² The other branch of the evil complained of in the last statute was assailed by an Act passed by Richard 3 in 1484, a qualification of freehold of the annual value of 20*s*., a copyhold of the annual value of 26*s*. 8*d*. 'over all charges at the leste' being fixed for jurors in sheriffs' tourns.³ The raising of the independence of jurors must have done something to check the persecution of political opponents, as well as to limit the powers for mischief of the rural magnates. The want of success which attended the alleged malicious indictments of Sir Robert Harecourt was therefore in some degree attributable to the care with which successive statutes had hampered the employment of this formidable weapon.

The riotous disposition of the country gentry is further illustrated by the case of the Abbot and Convent of Byland, Yorkshire, against Warcoppe (p. 253), which also contains a curious instance of the grasping policy of Henry 7, and of the manner in which the religious houses were exploited by influential laymen. It appears from the petition that at some time between November 1, 1494, when Prince Henry, afterwards Henry 8, was created Duke of York, and February 18, 1503, when he was created Prince of Wales, Henry 7 wrote, presumably on the occasion of a vacancy, requesting the abbot to nominate Prince Henry steward of the abbey lands in Yorkshire. It was not uncommon for stewards to be persons of

Abbot &c. of
Byland v.
Warcoppe.

¹ 1 Ed. 4, c. 2 (1461).

² *Ib*.

³ 1 Ric. 3, c. 4.

position. Sir Richard Sutton, a member of the King's Council at this time, and a 'governor' of the Inner Temple, was steward of the monastery of Sion.¹ Even peers held the office, as Thomas West, ninth Baron de La Warr, who was steward of the house of Bruton, Somerset (S. P. Dom. Hen. 8, vii. 1513). But de La Warr had been a member of Gray's Inn, and was therefore qualified for a post the holder of which was constantly called upon to adjudicate points of law and custom. That a prince of the blood should enjoy the office and its revenues was obviously an abuse, since he could only perform the duty by deputy. This deputy, Sir Richard Cholmeley, was also nominated by the King, probably on payment of a fine. The abbot and brethren, of course, capitulated. The result was this suit, the King having nominated Sir Richard Cholmeley and the Prince Robert Warcoppe of Warcoppe as deputy. It appears from the plaint that the Prince had only been appointed steward of the lands of the monastery in Yorkshire. Warcoppe's proceedings were all confined to Westmoreland, and there does not seem to have been any collision between him and Cholmeley. If the plaint were correct clearly Warcoppe could have had no *locus standi*. Warcoppe pleads that he was deputed both by the King and the Prince.

Warcoppe had already appeared before the Star Chamber in 1500 to answer in proceedings arising out of a fray between himself and the servants of his neighbour, Sir Edward Musgrave.² In this case he also assumed the part of representative of the Abbey of Byland, being, as he asserted, lessee to the abbey of the lordship and manor of Blatarne for life. To that case the abbot was not a party; but he presumably contested the claim, for in Trinity Term, that is, between June 9 and 30, 1507, an injunction was granted him by the Star Chamber against Warcoppe, who was prohibited from occupying the abbey lands in Blatarne.³ Warcoppe disobeyed the injunction, but does not appear to have been punished for the contempt. He was only indicted for forcible entry in the King's Bench, and the land restored to the possession of the abbey. His retainers killed the plaintiff in the case heard before the Star Chamber in 1500, and he himself was indicted as accessory to the murder. These proceedings were apparently fruitless. The Court of Chancery then interfered, and Warcoppe was laid by the heels for refusing to find surety to keep the peace. After imprisonment 'for a long space' he was released, still obstinately refusing to find surety, and, according

¹ See 'Dict. Nat. Biog.' sub Sutton, Sir Richard.

² See p. 106, *infra*.

³ P. 258, *infra*.

to the abbot, recommenced his depredations upon the monastic tenants. On this occasion he set up the plea of a delegated stewardship of the abbey land and demanded trial by one of those juries of the county which seem already to have proved complaisant.

Even among those bred to studious callings the disposition to violence is apparent. The case of the Principal and Fellows of Furnival's Inn against Johnson and others (p. 237) of the household of the Bishop of Ely illustrates the practice as contrasted with the law respecting the bearing of arms. The general law was laid down by the Statute of Northampton (2 Ed. 3, c. 3) in 1328, which is in the first instance a prohibition to appear in arms before the King's justices. The Act continues: 'Ne force mesner en affrai de la pees, ne de chivaucher ne daler arme, ne de nuit ne de jour, en faieres, marchees, nen presence des justices ne dautres Ministres ne nule part aillours, sur peine de perdre lour armures au Roi & de lour corps a la prisone a la volente le Roi.' It is certain that the general prohibition was not observed. But that the prohibition to carry arms in the presence of the justices was very severely enforced we know from Sir Thomas Figgett's case in 24 Ed. 3, where a knight, having been menaced with assassination, wore defensive armour under his clothes.¹ The statutes against carrying arms having fallen into desuetude, a confirmatory Act was passed in 1397 (20 Ric. 2, c. 1) ordering their enforcement and enacting 'que null seigneur Chivaler nautre petit ne graunt aile ne chivache par noet ne jours armez,' except the King's officers. Nevertheless the judges adopted a liberal interpretation of the statute, holding that 'in some case a man may not only use force and arms, but assemble company also; as any may assemble his friends and neighbours to keep his house against those that come to rob or kill him or to offer him violence in it and is by construction excepted out of this Act.'² Coke also quotes with approval a line 'Armaque in armatos sumere jura sinunt.' Obviously these interpretations left the door open for exploits like those of the gentlemen of Furnival's Inn and their neighbours of the Bishop of Ely's household. The City of London therefore, in 1363, sought to strengthen the statutory prohibition by ordinances of its own. No one was to wander about the city or the suburbs after curfew. But as there were exceptions in favour of 'a man known to be of good repute or his servant for some good cause,' the prohibition could not

Principal
&c. of Furni-
val's Inn v.
Johnson and
others.

¹ Year Book, 24 Ed. 3, fo. 33; E. Coke, 2 Inst. (ed. 1797), p. 161.

² 3 Ed. 3, 303, 305; Coke, l.c.

have been very stringently enforced. 'Item, that no one, of whatever condition he be, go armed in the said city or in the suburbs, or carry arms day or night,' and that 'no person draw sword or knife or other arm' under penalty of forfeiture of the arms.¹ Possibly it is with this ordinance in view that the bishop's servants pleaded that at the time of the affray they were within his franchise.² A proviso to the ordinance against going armed in favour of 'the vadlets of the great lords of the land, carrying the swords of their masters in their presence,' of the serjeants-at-arms in attendance on royalty, and of 'the officers of the city and such persons as shall come in their company' &c., shews that at this time swords were not allowed as articles of apparel.³

Affrays by the young gentlemen of the Inns were not uncommon. 'The thirteenth day of Aprill 36 Henry 6 (1458) there was a great fray in Fletestreete, betweene men of court and the inhabitants of the same streete, in which fray the Queenes attorney was slaine. For this feate, the king committed the principall governors of Furnivals, Cliffords and Barnardes Inne to prison in the Castle of Hertford, and William Tailor, alderman of that ward, with many other, were sent to Windsor Castle the seventh of May.'⁴ In one of the Lansd. MSS. (MS. 639) containing Star Chamber cases, *temp.* Henry 8, is an entry '5 May 8 H. 8 (1517). The Ancients of the Inns of Court being present. It was advised that they should not suffer the gentlemen students to be out of their houses after six o'clock at night without very great and necessary causes, nor to wear any manner of weapon.'⁵ Hudson tells us that in the times of Henry 7 and Henry 8 'sometimes men were bound (by the Star Chamber) to wear no weapons.'⁶ 'The Star Chamber was wont to keep an eye on the Inns of Court,'⁷ to which may be added and of Chancery.

Kebell v.
Vernon.

The spirit of lawless violence was not content with the satisfaction derivable from affrays. Abduction or 'ravishment of women,' as distinct from the ravishment of wards,⁸ was an offence known from early times. It was peculiarly an aristocratic offence, since its object was wealth and its accomplishment required a force sufficient to overawe constables and other local authorities. When, therefore, in

¹ H. T. Riley, 'Liber Albus' (1861), pp. 334, 335.

² See p. 241, n. 5, *infra*.

³ See further H. T. Riley, 'London and London Life,' 1276-1419, p. 268.

⁴ J. Stow, 'Chronicle' (ed. 1631), p. 404.

⁵ J. S. Burn, 'The Star Chamber' (1870),

p. 45.

⁶ 'Of the Court of Star Chamber,' p. 193.

⁷ Scofield, p. 56, n. 3.

⁸ See Pollock and Maitland, 'Hist. Eng. Law,' ii. 363 &c.

1347 the Commons complained to Edward 3 of its frequency, and of the pardons granted to the perpetrators, they only received the vague assurance that such should not issue otherwise than conformably to the honour and profit of the King and his people.¹ Where a woman being a tenant of a manor held of the Crown was abducted and married by force, the Crown seized the lands which by virtue of the marriage would have become the husband's.² This custom probably suggested the stringent provisions for the suppression of the practice enacted by Parliament in 1382. The petition of the Commons complained that the victims were the daughters of noblemen and gentlemen,³ and that the law was ineffective because after the consummation of the offence the injured women refused to prosecute. Under these circumstances this easy way of procuring wealth was unchecked by any deterrent. The Act 6 Ric. 2, st. 1, c. 6 therefore provided that where after rape the woman consented both parties should be disabled to take by inheritance dower or jointure. There was, however, a proviso which in this case made the Act inapplicable. It was necessary first to prosecute the ravisher to conviction. The proceedings taken against him in *Kebell v. Vernon* (p. 130), as we shall see, proved abortive. Further, the Act only applied where the woman consented, which was not, except by construction, the case here. Lastly, there was a saving to lords of 'all their escheats of the said ravishers' arising from the custom already mentioned. It is possible that in this case the escheats, if any there were, fell to the father of the ravisher. Nevertheless the Act proved to some degree effective, so that after two years' experience the Commons in 1384 successfully petitioned that it might remain in force.⁴ The offence was excepted from the general pardon of 1387,⁵ and in reply to a petition of the Commons was in 1389 declared excepted from all general pardons.⁶ In 1429, during the minority of Henry 6, the Lords of the Council of Regency drew up a series of articles which they solemnly swore to observe. Among these was an undertaking neither to 'wittingly receive, cheryssh, hold in houshold, ne mayntene pillours, robbours, oppressours of the poeple, mansleers, felons, outelawes, ravysheours of wymen ayens the lawe, unlawful hunters of foreste, parks or waresnes or any other opyn Mysdoers, or any opynly named or famed for swyche, til his Innocence be declared.'⁷ A few years later, in 1436,

¹ Rot. Parl. ii. 172, a.

² Ib. 176, b; 208, a.

³ In Cheshire, Herefordshire, and the Marches of Wales the offence was especially prevalent. 2 Ric. 2, st. 1, c. 6.

⁴ Rot. Parl. iii. 174, b.

⁵ Ib. 248, a.

⁶ Ib. 268, a; cp. 544, a, b (1404).

⁷ Ib. iv. 344, a.

Parliament, in a private Act, took a step which looks like an infringement of the ecclesiastical jurisdiction over matters matrimonial. A widow named Isabel Botiller, living at Burton Wood, in Lancashire, was forcibly abducted by one William Pulle, very much in the fashion of the present case. She was dragged into a church, and a priest said the marriage service over her, though she refused to make the responses. The abductor consummated the alleged marriage. It does not appear that the Ecclesiastical Court intervened to set it aside. Nevertheless Parliament, in derogation of the accepted doctrine that man and wife are one flesh, passed a special Act allowing the injured woman an appeal of felony against her husband.¹ A like Act was passed in a like case three years later (1439).² These Acts and the penalties of that of 1382 appear to have led to some change in the methods of these offenders. An Act of 1453 (31 Hen. 6, c. 9) complains of the new inventions ('novelx invencions') devised for effecting the main purpose of the crime, viz. the enjoyment of the goods of the ravished women. The method was to get possession by force or fraud of their persons and 'not suffer them to go at large and be at their liberty until they will bind themselves to the said offenders or other person or persons to their use in great sums by obligations' of various kinds. As a remedy for this, power was given to the injured person to sue a writ out of Chancery, and to the Chancellor to nullify obligations so extorted. The ingenuity of these malefactors being thus baffled, resort was again had to the more primitive method of forcible marriage or extortion by abduction, duress, and violence.

The difficulties obviously incident to the enforcement of the statute of 1382 were swept aside by the extensive range of the Act for the repression of this crime passed by Parliament in 1487. Its title is 'An Acte agaynst taking awaye of Women agaynst theire Willes' (3 Hen. 7, c. 2). The Act was confined to cases of women with lands, tenements, or personalty, the possession of which was the object of the crime. Not only the takers of the woman, but the procurers and abettors of the felony and the receivers of the woman were 'all adjudged as principal felons; the like whereof we finde not in any other statute that we remember.'³ Receivers of the misdoers only, but not of the woman, were by construction of the Act held to be accessaries.

Under this statute the defendant, William Vernon, as well as Roger Vernon, was capitally liable. As appears from a report of subsequent proceedings, mentioned below, they were put on their trial at the

¹ Rot. Parl. iv. 498, a.

² Ib. v. 14, b, 15, a, b.

³ E. Coke, 3 Inst. 61.

assizes at Derby, presumably in the summer of 1502. In Derbyshire, as may be imagined, it was hopeless to expect a successful prosecution of a Vernon on a charge of this nature. The defendants were acquitted. The plaintiff, Margaret Kebell, then brought her wrongs before the Star Chamber, a Court which claimed no jurisdiction empowering it to inflict death.¹ It is to be observed that the proceedings in the Star Chamber appear to be taken, not against the chief culprit, Roger Vernon, but against his uncle, William Vernon. They began in the summer of 1502, and the latest date indorsed upon these papers is November 4, 1504. In Trinity Term of that year the case came into the Common Law Courts. Margaret sued her husband in the Common Pleas in trespass for damages. From this it may be inferred that the Parliamentary precedents already cited had been judicially extended to this class of cases. The case is reported in R. Keilwey, 'Reports d'ascuns cases' &c., ed. 1688, p. 52, d. The case for the plaintiff was that the defendant at the church of D(erby) within the same county took the plaintiff to wife, and that the plaintiff was forced into the marriage by menaces and duress of imprisonment, against the will of the plaintiff, in another county. Among the questions discussed was whether the marriage was voidable for duress or not. Frowike, J., was of opinion that it was. Demurrer was entered to the declaration that it did not allege menace in the county where the marriage took place, '*en quel case les espousels serra prise de bon conge & assent del feme al temps del espousels.*' The point was argued at length and eventually decided in favour of the defendant. As he had not been convicted of ravishment, the Act of 1382 did not apply to his case. The defendant retorted by bringing an action for conspiracy against E. Keble and various other persons. From the report of this case, heard in Michaelmas Term, 20 Hen. 7 (1505), and Hilary Term, 21 Hen. 7 (1506), in the King's Bench, we glean further particulars.² It appears that no fewer than a hundred armed men escorted Margaret Kebell to Derby, presumably from Leicestershire ('*a tiel ville en auter county*'). They were pursued by E. Keble with forty persons '*modo guerrino arraiati chivauchants.*' As has been seen, these were unable to effect a rescue. E. Keble and the other defendants then procured an indictment of the plaintiffs, who, though unnamed, must be taken to be the Vernons, at the assizes at Derby, where they were tried and acquitted. The Vernons, however, failed in their action for conspiracy, the judges

¹ E. Coke, 3 Inst. 66.

² Y. B. M. T. 20 Hen. 7 (ed. 1679), f. 11,

c. 21. Conspiracy: Keilwey's 'Report', p. 81, d.

holding that the appearance of the plaintiffs riding in armour was a just cause for suspicion and justified their procurement of the indictment.¹ It is abundantly clear, therefore, that Margaret Kebell remained irreconcilable.

What the decree of the Star Chamber against William Vernon was remains unknown, but a record exists which indicates the penalty paid by Sir Henry Vernon for his part in the affair. There is printed in J. S. Burn, 'Notices of the Court of Star Chamber' (1870), pp. 32-36, 'A list of monies received by Edmund Dudley for the king from the 20th to the 23rd Hen. 7.' Among these occurs at the date July 14 22 Hen. 7 (1507), 'For the pardon of Sir Henry Vernon 900 lib.'

Goryng v
Earl of
Northum-
berland.

An instance of legalised duress is the case of *Goryng v. the Earl of Northumberland* (pp. 95-105), which also illustrates the rights attaching to guardianship in chivalry. At some time between 1499 and 1502, probably in 1500, one John Goryng, then approaching the age of twenty-one years, was legal owner by the death of his grandfather, also John Goryng, of considerable estates in the county of Sussex. Henry Algernon Percy, the fifth Earl of Northumberland, having been born on January 13, 1498, had recently come of age.² He claimed guardianship of Goryng in respect of certain lands within the honour of Petworth alleged to be held of the earl in chivalry. John Goryng, the grandfather, appears to have died in 1495, having outlived his son, who also bore the same name. In the interval it may be presumed that John Goryng, the grandson, was living with his relations. The young earl, doubtless ambitious to exercise his power, began by seizing John Goryng, the minor, and practically imprisoning him in his London house in St. Martin's-le-Grand. His excuse was that there were other claimants to the guardianship, who doubtless began to assert their claims upon hearing of the earl's action. Assuming the earl to have had the right to the guardianship he seems to have unquestionably been entitled to take possession of the body of the ward, for with it went the right of giving or, in effect, selling the ward in marriage—a valuable property the prospective loss of which had probably stirred the other claimants to assert themselves.³ Such a competition was familiar enough to have brought into existence a general rule of law, laid down by Bracton and affirmed by statute,

¹ For a further decision to this effect in a parallel case see Coke's Rep. XII. 23.

² De Fonblanque, 'Annals of the House of Percy' (1887), i. 310.

³ Bracton, f. 87.

that, where a number of persons claimed guardianship and marriage, the marriage belonged to the lord from whom was derived the most ancient of the titles by which the ward held any of his lands.¹ So far as the lands were concerned the guardianship of them belonged to the respective lords.² The earl, therefore, was insuring himself against the loss of his property. His right is not seriously questioned by the petitioner. The very definition of guardianship in chivalry, given by Littleton (§ 116), is seisin of the wardship and of the lands and of the heir. Indeed, there is ground for suspicion that the right was curtailed of some of its ancient amplitude, for Bracton asserts that 'the lords may take into their own hands the land together with the heir (of full age) in possession,' apparently till the fulness of age be proved. Naturally the exercise of this right provoked violent resistance, which Glanvill appears to condone if the heirs are willing to render their feudal dues.³ It is noticeable that Bracton in the corresponding passage⁴ omits consideration of these forcible proceedings altogether.

The right of marriage was originally confined to the marriage of female wards, on the ground that a lord ought not to be compelled to admit an enemy as tenant.⁵ But a strained interpretation of c. vi. of Magna Carta, '*hæredes maritentur absque disparagatione*,' by which '*hæredes*' was intended female, was applied to male wards. This claim was made statute law by the Statute of Merton (c. 6) in 1236.

The earl, the petitioner alleged, confined him without access of his friends unless in presence of the earl's servants. In an age when the powers of parents and masters were indefinite it was not to be expected that the duties of guardians in chivalry should be very clearly stated. But it was implied in the nature of the relation that the ward should be brought up to perform the duties of his station, and the application of the Great Charter's proviso '*absque disparagatione*' by the Statute of Merton indicates the drift of public opinion. On the other hand, the earl by the Statute of Westminster the Second (1285) might reclaim a ward who had escaped to the custody of others, and he could therefore presumably secure himself against the escape. A more tenable count of the complaint is that the earl has entered into the petitioner's lands, '*takyn the Rentes of his Farmours and hathe seased and takyn parte of his goodes to his*

¹ Bracton, *ib.*; also Statute of Westminster the Second, c. xvi.

² Bracton, *ib.*

³ Glanvill, vii., c. ix.

⁴ F. 86, a.

⁵ Glanvill, vii. 12.

grete enpouerysshement.’¹ The petitioner suggests rather than alleges ‘waste.’ Entry upon the lands was undoubtedly legal. The receipt of rents was legal. ‘Plenam itaque custodiam habent domini filiorum et hæredum hominum suorum et feodorum suorum, ita quod plenam inde habent dispositionem.’² The guardian was bound to restore to the heir his inheritance in good condition and freed from debts;³ but he could take the profits of the estates and provide suitable maintenance thereout for the ward.⁴ In the case of waste actually committed by a guardian there were two processes. There was an action for waste and an action for account of waste. Coke asserts⁵ that by the Common Law an action of waste lay as well against a guardian in socage as against a guardian in chivalry, and this appears to agree with Glanvill.⁶ By Magna Carta, c. 4, forfeiture of the guardianship was the penalty inflicted. Coke founds his proposition that an action of waste lies against the guardian in socage upon the fact that ‘the action of waste is generall; fecit vastum de terris &c. quas habet vel habuit in custodia de hæreditate predicta, which writ doth extend as well to the gardein in socage as in chivalry.’⁷ Fitzherbert also says ‘lheire deinz age auera bref de Wast vers le gardein en socage.’⁸ But Sir Matthew Hale, C.J., commenting on another passage of Fitzherbert, that ‘lheire auera accompt de Wast vers le gardein cybien al pleine age come deins age,’⁹ says: ‘Waste does not lie against guardian in socage, but only account or trespass, according to the nature of the waste,’ citing Y. B. 16 Ed. 3, Waste, 100. In this case the defendant, a woman, held as guardian in socage ‘by reason of nurture’ (‘pur resoun de nurture’), and after long argument it was decided that a writ of Waste did not lie. This was in 1342. Clearly, then, a change in the law had taken place between 1342 and 1534, when the first edition of the ‘*Novel Natura Brevium*’ appeared.

The defeated defendant guardian in chivalry in an action for waste suffered three punishments. 1. He lost the custody of the heir and his lands. 2. He incurred damages to the amount of the waste. 3. He made fine to the King. This was the concurrent effect of the Statute of Gloucester (1278), c. 5, and Magna Carta, c. 4.¹⁰ Perhaps the third penalty contains the key to the exclusion of the

¹ P. 97, *infra*.

² Glanvill, vii. 9.

³ Glanvill, *ib*.

⁴ Glanvill, *ib*.; Bracton, f. 87.

⁵ 2 Inst. 305.

⁶ vii. 9, 10.

⁷ Coke, 1.s.c.

⁸ ‘Nat. Brev.’ (ed. 1616), p. 59, d.

⁹ ‘*New Natura Brevium*,’ with commentary by L. C. J. Hale (1794), i. 59.

¹⁰ See Coke, 2 Inst. 300.

heir in socage from the action, that the King was only prejudiced where the waste was committed on land held by knight service. The Provisions of Westminster (1259), by which an account was granted to an heir in socage where the land was held 'in custodia parentum heredis,'¹ are apparently an extension to him of a right which brought him effective redress without involving the guardian in socage in the penalties attaching to corresponding misfeasance on the part of a guardian in chivalry. The language is repeated in the seventeenth section of the confirmatory Statute of Marlborough (1267). It is not at once apparent why kinsfolk (parentes) were specified. The form of the Provision shews that they were not necessarily guardians. The rule was, in the case of tenants in socage, that the mother's kinsfolk were the guardians where the inheritance came from the father, and the father's where it was derived from the mother.² But Pollock and Maitland³ give examples in which guardianship over socage tenants was claimed by lords, especially by ecclesiastical lords. Was the concession to socage tenants of a right to an account against their kinsfolk guardians confined to such guardians in the interest of the magnates, at that time in the plenitude of their power, but consenting to yield so much to a growing public opinion? Coke in his Commentary on the Statute of Marlborough (2 Inst. 135) takes no notice of the point.

The petitioner, John Goryng, had, therefore, a legal ground of complaint so far as the seizure of his goods was, as alleged, an 'impoverishment.' At the close of his replication (p. 105) he alleges that two of his tenants had, in consequence of the earl's high-handed usage of them, abandoned their farms. This is a further allegation of waste, specifically known as 'exilium,' the 'exile of men to the disherison of him in the reversion or remainder.'⁴

According to the aggrieved petitioner he had offered to find bail for his surrender in case the three persons nominated by the earl to inquire into the conflict of claims should decide in the earl's favour. To this the earl replied that his counsel assured him they had never read or heard of a precedent. Indeed, if the theory of guardianship in chivalry, that it was the training of the ward under the eye of the

¹ § 12; see Stubbs, 'Select Charters.'

² Bracton, f. 87, b; Littleton, § 123. Queen Elizabeth, widow of Edward 4, in resisting the removal of the two princes, her sons, from sanctuary, is stated by Sir Thomas More to have advanced the ingenious argument that Edward 5 was her

ward 'because he hath no lands by descent holden by knight service, but only by socage.' Life of Edward 5, by Sir Thomas More, in 'Complete History of England' (2nd ed. 1719), p. 490.

³ 'Hist. Eng. Law,' i. 301-2.

⁴ See Coke upon Littleton, 53, a, b.

guardian for certain public duties, be considered, the earl's refusal to entertain the proposal seems not unreasonable. In this case, in view of the existence of so many aspirants to the guardianship and the fact that the heir was unmarried, concession on the earl's part would have imperilled a valuable right. Ravishment of heirs was an offence sufficiently frequent in the thirteenth century to have provoked two statutes against it, the Statute of Merton, c. 6, and the Statute of Westminster the Second, c. 35; and the case of abduction last discussed suggests that this class of proceeding had perhaps not altogether fallen out of date. It was the more probable here, as the conflicting claims were probably not advanced without some foundation in law. The petitioner, however, alleged that the earl's object in refusing his enlargement was to keep him in confinement until he came of age in the Michaelmas following the date of the petition, or until he had extorted a fine. Upon the attainment of the age of twenty-one by the tenant in chivalry he would, in the ordinary course, sue out his livery or ouster le main,¹ that is, the restitution of his lands. But where he had been in wardship, he would not be liable to relief.² The alleged demand was, therefore, presumably illegal. The alternative offence imputed by Goryng as designed by the earl, that of continuing in possession of his lands and himself, was not unknown to the law, and was provided against by the Statute of Marlborough, c. 16, on which Coke notes, 'When a gardian in chivalrie holdeth over, he is an abator.'³ The earl's justification for seizure of the goods, which appear to have been six oxen and a horse belonging to the plaintiff, was that they were due to him on the death of the grandfather as 'a mownter and a heryott' in respect of eight portions of land held of him, presumably upon another and copyhold tenure (see p. 101, n. 14). That the earl believed his right to the guardianship to be valid may be inferred from the fact that he took the initiative in laying the case before two of the judges as arbitrators, with Sir Reginald Bray as umpire. Bray, soldier, statesman, judge, and architect, was the Admirable Crichton of his day. He was especially qualified for this task, being experienced in judicial work, both as a judge in the Court of Requests and as High Steward of the University of Oxford. He was acquainted with the neighbourhood, being lord of the manor of Broadwater in West Sussex, which he had purchased from Sir William Radmyld, the petitioner's grandmother's brother.⁴ Further,

¹ Coke on Littleton, 77, a.

² *Ib.* 83, b, where the exceptions to the general rule are set out.

³ See Coke upon Littleton, 277, a.

⁴ See Elwes and Robinson, pp. 50, 266, Goring pedigree.

he enjoyed the reputation of being 'a fervent lover of justice.'¹ The two judges, Wood and Tremaille, appear to have had no local connexion (see p. 99, nn. 7, 8). Facilities were given to the captive ward to employ counsel, but the petitioner's complaint suggests that even at legal consultations the earl's servants intruded themselves. Each party alleged against the other obstructive delays: the petitioner that the earl was deferring the hearing by the judges 'till the saide Sir Reynolde Bray be departed'; the earl, that the plaintiff had petitioned the King when he perceived that the two judges, after repeated hearings, were about to report to Bray in favour of the earl, with the intent to delay justice. The confidence evidently entertained in Bray by both parties is a testimony to the truth of Polydore Vergil's eulogy. The earl's answer to the insinuations of the plaintiff betrays much exasperation. There is, unfortunately, no record of the issue of the proceedings. But that the earl may have had substantial grounds for his claim is suggested by the inquisition post mortem of Sir William Goryng, the petitioner's son, in 1554. The inquisition, as abbreviated by Dallaway, runs as follows: 'Maner' de Burton una cum uno capitali messuagio cum advocacione de Burton et maner' de Cotes in Barlavington, Petworth, Sutton, Duncton, Woollavington & Bignor.' The manor of Burton came to John Goryng, the petitioner, by his marriage with Constance Dyke, heiress of the Dawtrey and St. John families.² She also brought him the manor of Cotes in Barlavington.³ Petworth was both an honour and a manor. Both were held by the Earl of Northumberland,⁴ and the honour included more than forty manors.⁵ The earl held also the manors of Sutton and Duncton (ib.) and Woollavington.⁶ Bignor was a park appendant to the Castle of Arundel, then held by the Fitzalans, but leased by the Goryngs from the Earls of Northumberland.⁷ Besides these John Goryng afterwards became lord of the manor of South Lancing through the death of his cousin, Sir William Radmyld, without issue in 1503.⁸ He was at the time of this suit, therefore, heir presumptive to that manor. South Lancing

¹ Hall, 'Chron.' ed. 1548, f. 55 b. Polydore Vergil speaks of him in the same way, and was perhaps the source from which Hall borrowed his delineation. 'Vere pater patriæ, homo severus, ac ita recti amator ut si quid interdum peccatum esset, illud acriter in Henrico reprehenderet' ('Hist.' ed. A. Thysius, 1651, p. 774). At a later date, in 1507, we find the earl writing to solicit his influence in order

to bring a criminal to justice (De Fonblanque, i. 319).

² J. Dallaway, 'Rape of Arundel' (ed. E. Cartwright, 1832), 280.

³ Ib. 285, 286.

⁴ Ib. 301, n. e.

⁵ Ib.

⁶ Elwes and Robinson, p. 32, n.

⁷ Ib.

⁸ Elwes, p. 133.

was held of the lord of Bramber.¹ This was probably the foundation of the claim to the guardianship advanced by Thomas, Earl of Surrey, as well as of that of Thomas West, Lord de La Warr, who had sold the castle and lordship to the earl on September 4, 1494. Whether the guardianship passed would probably depend upon the terms of the conveyance. As John Goryng the father was at that date alive, the point was probably not considered, but semble that a conveyance of a lordship in fee would carry guardianship with it without special words. Littleton says (§ 116): 'Gardian in right in chivalrie is where the lord by reason of his seigniori is seised of the wardshippe of the lands and of the heyre.'²

Madeley v.
Fitzherbert.

Among the forms of oppression occasionally practised by land-owners from early times were those connected with the levying of distress. In the case of *Madeley v. Fitzherbert* (pp. 54-69), as in that of the Abbot of Eynesham v. Harecourt, it was alleged that cattle, in the latter case sheep, had been injured or destroyed by being driven to distant pounds and there impounded. The defendant Fitzherbert, the alleged wrongdoer, justified his distress by affirming that the cattle were taken damage feasant. Even if the distress were legal, and the law allowed distress in such a case,² the stock so distrained was not to be injured; it was merely held as a pledge. But the possession of the power invited abuse. Against the particular abuse of which the defendant Fitzherbert was alleged to be guilty the law had endeavoured to give protection from early times. The Statute of Marlborough, c. 4 (1267), forbade cattle taken in distress to be driven out of the county.³ Great lords had extorted concessions by seizing cattle and impounding them in their own castles. By the Statute of Westminster the First, c. 17 (1275), power was given to the sheriff in such cases to compel restitution. In 1447 the Commons petitioned against diverse oppressions and extortions done 'within the shires of Notyngham, Derby, Warwik, Stafford, Salop, Chester, Lancastre, Westmerland, Cumberland, Northumberland, and Yorkshyre by colour of taking of mennes catell under the name of distresse.' The cattle so taken were driven away, sold, or slaughtered, 'so that the owners of the seide catell may never come to have replevyn of them.' The

¹ Elwes, p. 133.

² 'Dicere enim poterit captor quod iuste cepit aueria sua quia illa invenit in damno suo et secundum legem et consuetudinem regni imparcavit illa donec damnum ei esset emendatum.' Bracton, f. 158.

³ 'Nullus de cetero ducere faciat districtiones quas fecerit extra Comitatum in quo fuerint. Et si vicinus hoc fecerit supra vicinum per voluntatem suam et sine iudicio puniatur . . . veluti de re contra pacem.' 52 Hen. 3, c. 4.

Commons asked therefore that the owners in such cases might have an action of trespass with triple damages and costs against both the takers and the receivers of cattle so taken. Although the proposed Act was to last during four years only, it was refused the royal assent.¹ The Parliament of 1450, elate with the overthrow of Suffolk, renewed this petition in part, confining their complaints to the 'shires & lordshippes Roialx in Walys and of the Duchie of Lancastre in the said parties.'² The offence was now declared to be felony, and an Act passed to that effect was to last for five years (28 Hen. 6, c. 4). Although the prohibition of the Statute of Marlborough against impounding distrained cattle out of the county was enforced, full advantage was taken of the opportunities of vexation allowed within the statute by driving such cattle to the extreme limits allowed by law.³

The other point of legal interest in the case is the statement that the defendant Fitzherbert had treated with contempt the injunction served upon him under the Privy Seal. The defendant is at pains to deny this and to explain his subsequent action. It is to be observed that these allegations of contempt of Court are not infrequent. It is the gravamen against the defendant in *Idele v. the Abbot of St. Bennettes Holme* (p. 50). In the case of the Abbot of Byland *v. Warcoppe* (p. 253) the defendant is silent as to this charge. In *Treherne v. Harecourt*, William Tytte, a yeoman who probably could not read, 'dyd cast the seid writt (of sub pœna) into the Strete' and assaulted the messengers (p. 162). Even a decree of the Star Chamber was ridiculed by one of the bailiffs of Shrewsbury as 'but a Skrewe of paper and not to be obeyed' (p. 191, cp. p. 205). In Burn's notes from the Star Chamber MSS. in the British Museum is one dated May 29, 10 Hen. 7 (1495), 'A subpœna issued for contempt in letting a Privy Seal to fall in the dirt.'⁴

The pleadings in which the offence of contempt of Court is imputed to Fitzherbert are so obscure that it is difficult to elicit from them an altogether satisfactory interpretation. Fitzherbert is charged with a contempt in proceeding against the plaintiff, John Madeley (who, he alleged, had disseised him), in an Assize of Novel Disseisin, after having been served with an injunction under the Privy Seal. Apparently Fitzherbert defends himself from the imputation of

¹ 'Rot Parl.' v. 139, b.

² *Ib.* 200, a, b.

³ The 'Act touching thimpounding of Distresses' (1 & 2 P. and M. c. 12) was afterwards (1555) passed, prohibiting the driving of such cattle beyond the limits of the hundred &c. in which they were taken,

the preamble reciting that the statute was passed 'for thavoiding of grievous vexations, exaccions, troubles and disorder in taking of Distresses and impounding of cattle.'

⁴ J. S. Burn, 'The Star Chamber' (1870), p. 28.

contempt by saying that all he did after the service of the injunction was to suffer a recognitor to be sworn by way of affirming the array. This would be a waiver of the right to challenge the entire jury as having been unfairly impanelled, though not of the right of challenge to the polls. What the purpose of this proceeding may have been is not clear. To this defence Madeley replies that it is untrue, for that there was pleading before one of the assize was sworn. Fitzherbert rejoins that the reason was that the justices would not allow the array to be affirmed until there had been pleading to issue. There this controversy ends.

Grocyn v.
Kempe.

The law touching advowsons and rights of presentation largely occupies the attention of Glanvill and Bracton. The wrongful presentation of a clerk by a stranger, followed by admission and institution, a frequent abuse in times when communication was slow and patrons were often engaged in warfare, not only deprived the patron of his presentation *pro hac vice*, but also, at common law, of the inheritance of the advowson altogether. The only remedy the patron then had was to bring a writ of right of advowson, analogous to the writ of right for a freehold, which was tried by battle or the grand assize.¹ But by the Statute of Westminster the Second, c. 5 (1285), six months' grace was allowed in such a case within which the patron might bring the possessory action of 'darrein presentment (ultimæ presentationis),' if he based his title on descent, or 'quare impedit,' if upon descent as well as if upon purchase. Failing his action within the six months, the true owner was left without remedy, it being conceived contrary to public policy to disturb the peace of the Church. The law so stood from 1285 till the time of Anne, when a statute (7 Anne, c. 18) was passed enacting that no usurpation should displace the estate or interest of the patron, but that upon the next avoidance the patron might present or maintain a 'quare impedit.'² In the case of William Grocyn, the Master and the Brethren of the Collegiate Church of All Saints, Maidstone, against Sir Thomas Kempe (pp. 271-274), the plaintiffs allege, *inter alia*, an usurpation on the part of the defendant. Nothing is said in their petition as to the six months' grace allowed by statute, and they justify their proceeding in the Star Chamber by the allegation that the influence

¹ Glanvill, ii. 13. 'Ipse qui verus est patronus per nullum aliud breve recuperare poterit advocacionem suam quam per breve de recto quod habet terminare per duellum vel per magnam assisam.' Stat. Westm.

ii. c. 5.

² Blackstone, 'Comm.' bk. v., ch. viii. See also Coke on the Statute of Westminster the Second, c. v., 2 Inst. 360, 361.

exercised by the defendant will prevent them from obtaining a verdict in an action at Common Law. Upon the doctrine that the function of the Star Chamber was to render the law effective or to supply its omissions this was a proper and is a frequent plea.¹ The Star Chamber would not have entertained a petition to set aside a statutory limitation. Its relation to the statute law is well expressed in Hudson's phrase that 'jurisdiction seemeth to come to this court de incremento by (these) Acts of Parliament.'²

A picture of the condition of the religious houses upon the eve of the Reformation is furnished by the case of *Carter v. the Abbot of Malmesbury* (pp. 118-129). The case has an additional interest in that it brings before us the legal and social incidents attached to a bondman's status. Malmesbury was a mitred Benedictine monastery of which the head enjoyed a seat among the spiritual peers. Of the twenty-seven mitred abbeys enumerated by Fuller³ it ranked twenty-first in point of wealth, but its revenues were estimated at the handsome total of 803*l.* a year. The house was evidently in the latter half of the fifteenth century, like that of Bath, a scene of waste, dissoluteness, and incapacity. From the fact that Abbot Aylie, as we see in the case of *Culford v. Wotton*, had provided for his natural son on the abbey estates, the morals of the rest of the community may be inferred. Despite its large income it was encumbered with debts, and appears to have failed to discharge its pecuniary obligations in the nature of annuities, corodies, and the like. So notorious was its anarchy that on November 27, 1476, the Crown interfered. It took possession of the abbey, its cells, manors, lands, and rents, and committed them to the custody of the Prior of Bath to be administered by him for five years. We have already had a glimpse into the methods of administration of the priors of Bath. Possibly the Crown was made acquainted with the injudiciousness of its selection; more probably it became aware that by interfering with an exempt house⁴ it was trenching upon Papal prerogative; at any rate on December 28 following a precept was issued to the Prior of Bath to stay

Carter v.
Malmesbury,
Abbot of,
and others.

¹ 'I come to express the great and high jurisdiction of this Court which, by the arm of sovereignty, punisheth errors creeping into the Commonwealth which otherwise might prove dangerous and infectious diseases, or giveth life to the execution of laws, or the performance of such things as are necessary in the Commonwealth, yea, although no positive law or continued custom of common law giveth warrant to it.' Hudson, 'Of the Court of Star Chamber,'

p. 107.

² *Ib.* p. 115.

³ 'Church History' (1655), p. 295.

⁴ It should be mentioned that by a bull of Innocent 4 in 1248 it was exempt from episcopal jurisdiction (Dugd. 'Monast.' i. 260). On the other hand, Dr. Gasquet says: 'There is no reason whatever to suppose that the condition of the exempt religions was in any way worse than the rest.' 'Henry 8 and the English Monasteries,' i. 36.

execution of his commission.¹ Apparently the blind abbot, John Ayly, or Aylie, continued in possession of his office.² He died in the following year, and on April 24, 1480, licence was given to the prior and convent 'to elect an abbot in the place of John Ayly, deceased.'³

The case arose out of the alleged enfranchisement by Abbot Robert or Roger Persore of the grandfather of the plaintiff, a serf. Something perhaps turned on the terms of the deed of manumission. Sometimes the form ran 'cum sequela sua,' sometimes it added 'procreata et procreanda,' or equivalent words.⁴ The plaintiff was born after the grandfather's manumission, and from his petition it would seem that legal chicane contended that, in the absence of terms comprising future offspring, he was excluded from its benefits. At this date such a contention was untenable. There was no question, so far as we know, of the legitimacy of the grandson, and even if there had been, the Courts had held, since the time of Edward 2,⁵ that a bastard, as nullius filius, must be presumed free-born. It is true that the deed of manumission, so far as its operative part is set forth in the plaint, does not expressly include the wife. But, whatever may have been the doubts prevalent when Glanvill and Bracton wrote as to the effect upon the status of a child of the bondage of one of its parents, these had long since been resolved. The status of the child was at this time held to depend upon the condition of the father.⁶ The plaintiff was born of a father, if we are to believe his statement and the evidence, free though enfranchised.

There seem to have been in Fitzherbert's time, a generation later, still cases of the reduction of freemen to serfdom.⁷ A corrupt ecclesiastical society burdened with debts, as Malmesbury was, might be not indisposed to a profitable abuse of power,⁸ and the precautions taken by the manumitted bondman, Thomas Carter, to make the fact of his enfranchisement as public as possible suggest that he was not without apprehension.⁹ The plaintiff in his petition marshals the

¹ Pat. Rolls, 16 Ed. 4, p. 12.

² Ib. p. 131, December 22, 1478.

³ Ib. 190. See p. 118, n. 3, *infra*.

⁴ An example of a manumission by the Prior and Convent of Belvoir, 'cum tota sequela sua,' on June 9, 6 Hen. 5 (1418), is in Madox, 'Formulare Anglicanum' (1702), p. 420.

⁵ Y. B. 19 Ed. 2, f. 651-2. Pollock and Maitland, 'Hist. Engl. Law,' i. 406, n. 2.

⁶ 'Lex Angliæ nunquam matris sed semper patris conditionem comitari justum judicat.' Fortescue, 'De Laudibus,' c. 42 (ed. 1616).

⁷ 'Surveyenge,' ch. 13, p. 31 (ed. 1539).

⁸ A gross case, if we are to credit the

allegations of the plaintiff Thomas Paunfeld, of Chesterton, Cambs., occurred in the reign of Henry 5, when the prior and canons of Barnwell claimed the free tenants holding in villainage as their bondmen, imprisoned the complainant for seven years, and after his release by judicial authority again imprisoned him for more than a year. Rot. Parl. iv. 566-616.

⁹ The Leges Henrici Primi made careful provision for the publicity of enfranchisement, which must be 'in ecclesia, vel mercato, vel comitatu, vel hundredo coram testibus et palam.' 78, § 1. R. Schmid, 'Die Gesetze der Angelsachsen' (2nd ed., 1858).

evidences of his freedom. Abbot Aylie had retained him in his service for wages. The incident is not conclusive, since even in Bracton's time a bondman could enter into a contract with his lord which would be protected by the Courts 'quia semel voluit (dominus) conventionem et quamvis damnum sentiat, non tamen fit ei injuria et ex quo prudenter et scienter contraxit cum servo suo, tacite renunciavit exceptionem villenagii' (Bracton, f. 246). A more cogent proof was that Abbot Aylie had demised him two houses with the appurtenances for term of life, receiving a fine of a hundred shillings. The fine suggests a copyhold, and the plaintiff in effect sets forth that he has, to borrow a phrase from Blackstone,¹ 'an interest equivalent to a freehold.' Such an interest in a copyhold could now be maintained at common law against the lord.² Indeed, so far had the Courts gone in their presumptions of implied enfranchisement that it had been laid down in 1496: 'Si le seignior a luy [the bondman] fait leas pur terme dans, ceo est enfranchisement, pur ceo que il prist interest en le terre vers le seignior.' Per Huse, C.J., Y. B. H. T. 11 Hen. 7, pl. 6, f. 13. Notwithstanding the absolute powers over the property of a bondman in blood and tenure, and the all but absolute power over his person theoretically possessed by the lord, there is evidence that by the fifteenth century public opinion exercised, as a rule, some check upon oppression. More than a hundred years before this case, in the homily of the Persone's Tale, Chaucer condemned those who 'taken of here bondmen amerciments, whiche mighte more resonably ben cleped extorcions than amerciments. Of whiche amerciments and raunsoninge of bondemen some lordes stywardes seyn that it is rightful, for as muche as a cherl hath no temporel thing that it ne is his lordes, as they seyn. But certes, thise lordeshipes doon wrong that bireven hir bondefolk thinges that they never yave hem. . . . And forther-over, ther-as the lawe seith that temporel godes of bonde-folk been the godes of hir lordshipes, ye, that is for to understonde, the godes of the emperour, to deffenden hem in hir right but nat for to robben hem ne reven hem.'³ Fitzherbert, writing a generation later than this case, condemns the practice as 'extorcion or bribery.'⁴

¹ 'Commentaries' (ed. 1766), ii. 100.

² This was the point of a celebrated case tried in 1482 (Y. B. 21 Ed. 4, case 56, f. 70). It was an action of trespass by the lord for houses and close broken. The defence was that the two houses and the close were customary land, leased to defendant for term of life, 'par force de quel il fut seisi &c. come de frank tenement solonque le custome de mesme le manoir.' It was declared by Brian, C.J., following a precedent of Danby, C.J., in 1467, that the

Courts of Common Law, as well as the Court of Chancery, would protect a tenant in villainage with a heritable interest, though he had no freehold tenure. See 'Trans. R. Hist. Soc.' (1892), N.S., vi. pp. 233-245.

³ 'Works of G. Chaucer,' ed. by W. W. Skeat (1894). 'Canterbury Tales,' p. 618. The mention of the emperor shews the mind of the writer to be addressed to the Roman law, though he mitigates it with English custom. See p. cxxvii, *infra*.

⁴ Robbery. See p. 228, n. 10, *infra*.

The two cases of bondage in the volume of *Select Cases* in the Court of Requests, published by the Selden Society in 1898, exhibit the enforcement of an extreme degree of extortion by a lay peer¹ and a case of minor gravity on the part of a knight.² In the second case the plaintiff declared his apprehension 'that the seyd Sir Edward (Gorge) wolde take or imprison hym for a bondman.' Some such threat appears to have been made, but not to have been carried into effect. But Olveston, Abbot of Malmesbury, had fewer scruples. If we are to believe the plaintiff, he not only robbed but tortured. Imprisoning his alleged bondman in the monastery, he 'put hym both handes and fete in strayte stockes and ponderous irrons and tied hym to a great new cheyn to a great stocke and so yet kepyth hym in that intollerable duresse.'³ The conservative instincts of the clergy⁴ had in this case apparently maintained methods of oppression familiar, it may be, to the thirteenth century, but repugnant to the lay conscience and practice of that age.⁵ That the abbey maintained its grip upon its bondmen till the Dissolution appears from a letter to Cromwell in 1537 of Sir John Bryggys and Giles Pole, commissioners appointed to inquire into a claim by Abbot Frampton, the last abbot of Malmesbury, to one William Lane, as his bondman. 'We hear the abbot,' they write, 'claims Lane as his bondman, and if he be not so the abbot does the man great wrong.'⁶ The reason for this tenacity on the part of the Abbots is disclosed in a chance sentence of a letter to Cromwell from Dr. William Petre on January 17, 1539. 'The demesnes [are] all in their [the monks of Malmesbury] own hands.'⁷ Demesne lands in the hands of the lord were cultivated by bondmen,

¹ The Earl of Bath. Burde and another v. the Earl of Bath, 'Select Cases in the Court of Requests,' pp. 48-59.

² *Ib.* Netheway v. Gorge, pp. 42-46.

³ As to the legality of this, even in the case of convicted prisoners, see pp. cxxxv-cxxxvi, *infra*. A monstrous instance occurred about 1439, when Humphrey, Duke of Gloucester, seized a Wiltshire gentleman, John Whithorne, as his bondman, confiscated his property, consisting of sixty houses, 636 acres of land, &c., and confined him for more than seven years a prisoner, 'sub tam diris carceribus in ergastulo tam obscuro et tenebroso, in adeo grandibus fame, vite miseria, victus et vestimentorum abstraccione, imprisonamenti duricie' &c., that he lost his eyesight. Duke Humphrey was murdered in 1446, and Whithorne restored to his estates and freedom by a grant of July 16, 25 Hen. 6 (1448). Rot. Parl. v. 448.

⁴ The fact that this confiscation was

practised by the clergy is adduced by Student in Christopher St. German's 'Doctor and Student'—written about this time—as presumptive evidence of its morality. Dialogue, ii. ch. xviii.

⁵ In the Duchess of Buckingham's case, printed by Dr. Furnivall in his Introduction to Ballads from MSS. i. 12, it appears that the officer of the duke 'did sese the goodes of the plentiffe is blood, that is to say (of four persons) for knowlige of ther bondshipe, And take an Invytory therof.' The taking of the inventory suggests that the goods were not confiscated, but estimated for tallage. Nothing is said as to the imprisonment of the bondmen, though they claimed to be free, and Edward Stafford, Duke of Buckingham, was exceptionally arbitrary and rapacious, even for that age. See I. S. Leadam, *Inquisition of 1517*, 'Trans. R. Hist. Soc.' (1892), N.S., vi. 189.

⁶ S. P. Dom. Hen. 8, XII. ii. 1323.

⁷ *Ib.* xiv. i. 78.

tenants at will at common law.¹ It is clear that the monks of Malmesbury exercised a practical supervision of the cultivation of their estates, and for this purpose used their bondmen as their labourers.

In his answer to the plaintiff's petition the abbot for the most part contents himself with a formal traverse of the counts. But on the point of the seizure of the chattels he states that 'he lafte with the wyff and children of the said Robert goodes and catall to the value of xx marcs (13*l.* 6*s.* 8*d.*) whiche be sufficient for there susten-tacion as yet and the same abbot offerd to delyuer to them suche mylche kyen as he hadde from them toward there sustentacion.' The plea recalls the passage in Bracton upon the amercement of villains. Bracton is considering the rights of the serf (*servus*) against his lord. He slavishly follows the Bolognese jurist Azo,² adopting 'the Roman dilemma,' 'omnes homines aut liberi sunt aut servi,' after which he feels constrained to identify the *villanus* with the *servus*. This identification, which had more influence upon text-books than upon practice, I have elsewhere considered.³ Its nonconformity with the common or customary law of his day is disclosed by the clause which follows the observation that masters could not, as in Roman times, inflict capital punishment on their serfs. Nay, more, he goes on to say, 'in hoc legem habent contra dominos, quod stare possunt in iudicio contra eos de vita et membris propter seuitiam dominorum vel propter intollerabilem injuriam, vt si eos destruant, quia saluum non possit eis waynagium suum' (f. 6).⁴ This recalls the clause of Magna Carta 'villanus eodem modo amercietur salvo wainnagio suo si inciderit in misericordiam nostram'⁵ (c. 20). If Bracton be right—and the fact that the exception he admits to the rights of the lord mars the symmetry of his theory argues strongly in support of his statement—it is contrary to all we know of the trend of opinion and practice to suppose that the reservation in favour of the serf had been withdrawn in the fifteenth century. It is accepted

¹ See 'Trans. R. Hist. Soc.' (1892), N.S., vi. pp. 198, 220.

² F. W. Maitland, 'Bracton and Azo' (Selden Soc. 1895), pp. 44, 49.

³ 'Trans. R. Hist. Soc.' (1892), N.S., vi. p. 193, foll.

⁴ The subsequent passage limiting this to serfs in ancient demesne has been shewn to be a later gloss by P. Vinogradoff, 'Villainage in England,' pp. 74, 75.

⁵ It is remarkable that the 'Mirror,' a later compilation than Bracton, insists upon the right to waynage as a differentiating mark

of the villain from the serf. The 'Mirror' is a strenuous upholder of the rights of the villain, none of which it accords to the serf. 'Mirror of Justices' (Selden Soc. 1893), p. 80. See I. S. Leadam, 'Trans. R. Hist. Soc.' (1892), N.S., vi. pp. 195, 201. Also id. 'The Authorship of the 'Mirror of Justices,' 'Law Quarterly Review' (1897), xiii. 85. Cf. the customary of King's Bromley in Shaw's 'Staffordshire,' i. 147. 'Consuetudines customar[i]orum de Kings-Bromley villani [sic] dicuntur a villa et non a villenage.'

that waynage means the plough and plough team. Perhaps the abstention from imprisonment of the bondman, which we have seen reason to believe customary, was an inference from the reservation of waynage, since the plough and the plough team would be useless without the ploughman. The abbot, however, does not plead that he has exempted his bondman's waynage. He says nothing of the plough or the plough team. He does not appear to allude to the law of Magna Carta or of Bracton. He pleads that he has left the family sufficient sustenance. The plea reminds us of the Mirror's exposition of the law rather than of that of Bracton. 'It is an abuse that one can claim as a bondman him for whom one has never found sustenance, whereas a serf is only a serf so long as he is in ward (*servus a servando*), and whereas no one ought to claim as a serf even one who is in his ward unless he finds sustenance for this serf, or an equivalent, namely, house and land in his fee whence the serf may gain his sustenance' &c. (p. 165). It is difficult to resist the conclusion that the plea of the abbot and the statement of the 'Mirror' point to some common authority. A legal justification of the duty to the villain so imposed by custom upon the lord is supplied by an argument of Serjeant Keble in a case probably belonging to the end of the fifteenth century, which turns upon the question whether a villain had appeal of mayhem against his lord. It must be premised that by the statute of 23 Edw. 3, c. 1 (1349), confirmed by 12 Ric. 2, c. 3 (1388) and 2 Hen. 5, st. 1, c. 4 (1414), any person of the labouring class, whether free or bond, might be summoned to serve any employer for wages if not wanted by his lord. On this Keble argued, 'quant il [the villain] est maime il ne poit doner service a nul, & auxy si le seigneur ne poit doner a luy manger & boier il nest able pur travel pur son viver.'¹ The villain would naturally represent his wife and family.

Another curious feature of this case is that the deed which was the evidence of manumission had passed out of the possession of the plaintiff's father as a pledge for eleven shillings, and was alleged to have been assigned by the bailee to the abbot. Obviously the implication involved in the utilisation as a pledge of a deed of manumission is the existence of a certain amount of risk of a reclamation to bondage.

Philosophic historians sometimes suggest that medieval bondage was, after all, not a more degraded condition than that of the modern free labourer tied by necessity to an employment which he dares not

¹ R. Keilwey's 'Reports' (1688), sub 'Casus incerti temporis,' c. 116, p. 134.

abandon. To the sentiment there is all the difference between economic compulsion, apparently the outcome of inevitable conditions, and a legal dependence upon personal caprice. Even comfortable circumstances, which he apparently enjoyed, created in the Malmesbury bondman no satisfaction with his lot. There is a pathetic ring in the words which, in his old age, he is recorded to have used that 'if he might bring that [his freedom] about it wold be more joifull to him then any worlelie goode.'

It has been seen that in theory the serf's chattels were his lord's. Thomas Carter, who is alleged to have been enfranchised, was a man of some substance. He was charged forty marks for his enfranchisement, which contrasts with the sixteen marks charged for the enfranchisement of a bondman by the Prior of Bath (p. 33). He kept a man 'servant'; he rode on horseback; he gave a feast to celebrate his freedom; he was even on friendly terms with the gentlemen of the abbot's household. These last were the intermediaries for a negotiation with the abbot as to 'what som the same Thomas shold pay for his manumission' (p. 127). But in order to evade the legal difficulty that a serf could not redeem himself with money which was not his, but his lord's, a friend named Thomas White appeared in the court of the manor of Newnton, to which Thomas Carter was bondman regardant, and there paid down 10*l.*, part of the price of his freedom. The MS. subsequently becomes indecipherable, but it seems to say that on the following day Thomas Carter himself handed over the forty marks (26*l.* 13*s.* 4*d.*) to the abbot at Malmesbury and then received the deed of enfranchisement from him. Part, at least, of the money in Carter's hands was, however, still the property of Thomas White's father, as whose agent the son acted, and the legal fiction that he was the purchaser and manumitter was so far maintained that it was not to be repaid by Carter until a day following the delivery of the deed of manumission. This method of enfranchisement was as old as Glanvill and Bracton.¹

The other case in which the Abbey of Malmesbury is concerned (Culford *v.* Wotton, pp. 45-49) corroborates the evidences of misrule. The quartering of Abbot Aylye's natural son on the lands of the house has already been mentioned. His conduct suggests either that he continued under his father's successor a course of presumption and contempt which had been tolerated by his father or that he

Culford r.
Wotton.

¹ Gl. v. 5, Br. f. 194, b. See Vinogradoff, 'Villainage,' pp. 86, 87; Pollock and Maitland, 'Hist. Eng. Law,' i. 410-411.

represented the opposition of the copyholders to a recent assertion on the part of the abbot as lord of his claim to the wastes of the manor.¹ The case brings before us the mode of remunerating the officers or 'obedientiaries' of the Benedictine houses. Instead of receiving payment out of the common fund, they were quartered on particular estates. This was certainly the system at Malmesbury in the time of Abbot Colern (1260-1296) and probably long before.² The 'Accounts of the Obedientiaries of Abingdon Abbey'³ shew that it prevailed there. In 1275 Abbot Wenlock of Shrewsbury, also a Benedictine house, settled a mill at Baschurch, four houses in Shrewsbury and a house in London on the kitchen of the Abbey of Shrewsbury.⁴ Until recent times it was the practice in the Colleges of the Universities to keep separate the accounts of the various foundations, the revenues being allotted to their respective beneficiaries. The peculiarity of this case is that, upon default by the tenant of the holding assigned for the remuneration of the kitchener, the kitchener himself and not the abbot and convent took action. To leave the officials of the abbey to enforce their claims against their tenants was like a recognition by the Crown of a right of private war, and was likely to lead to scenes, such as that described by the plaintiff, injurious to the abbey's repute.

Walterkyn
v. Letice.

A glimpse into a forgotten side of medieval life is revealed by the case of *Walterkyn v. Letice* (pp. 164-168), in which the hermit of Highgate sues the Vicar of St. Pancras for trespass, assault, and loss of goods. The occasion was a solemn procession, customary in Rogation Week, and the circumstances suggest that the vicar and parish officers were 'beating the bounds.' The complainant was a hermit, the successor of a long line of hermits, to whom in 1364 had been entrusted the repair of the highway between Highgate and Smithfield, with the right to take toll. It would appear from a comparison of the King's grant of 1364, as set forth in Lloyd's 'History of Highgate' (p. 113), with the bishop's grant of 1531, as given in Newcourt (see p. 167, n. 2, *infra*), that the profits of the place were derived from two sources: the first the right granted by the King to exact 'pavage' for the repair of the road; the second the right

¹ Cp. Fitzherbert, 'Surveyenge' (in *Ancient Tracts concerning the management of landed property* [1767]), 7, p. 19. 'And also the lordes haue enclosed a grete parte of theyr waste groundes and streytened theyr tenautes of theyr commyns therein.'

² 'Registrum Malmesburiense,' ed. J. S. Brewer (1880), ii. 371.

³ Camden Soc. 1892.

⁴ A. Owen and J. B. Blakeway, 'Hist. of Shrewsbury,' ii. 114.

granted by the bishop to receive the tithes and other offerings made to the chapel. We find similarly that licences to hermits to ask alms, whether for maintenance during the execution of a public work or for maintenance simply, were granted by the King's letters patent to reputable hermits, who were thereby exempt from statutes against vagabonds. Sometimes such were provided with letters testimonial from their bishops (12 Ric. 2, c. 7 [1388]).

As an example of a licence to a hermit engaged on public works, the following will suffice: '1335, Jan. 26.—Protection for two years for brother John Le Mareschal, a hermit, staying at the chapel of St. Michael by Blythe, about the making of a causey between Blythe and Mardersey and a bridge for the town of Mardersey, who is dependent on charity for the sustenance of himself and the men working at the causey and bridge and is going to divers parts of the realm to collect alms.'¹ For a case of a licence granted where no pretence of public service was advanced, see Pat. Rolls, 1339, July 18, p. 302. 'Protection for one year for Robert de Notyngnam, hermit, who depends upon charity for his subsistence.' The statute of 1388 shews that the character of a hermit was constantly assumed by mendicants. This we know from other sources, as the Vision of Piers Plowman, Skeat's edit., text C, passus x., l. 188:

'As eremites that en-habiten by the heye weyes
And in borwes a-mong brewesters² and beggen in churches.'

The first hermit of Highgate, it is suggested by Lloyd (p. 112), may have been the gatekeeper to the bishop's park, and his hermitage the gatehouse at its entrance. The plaintiff hermit in this case enjoyed a garden, which he and his predecessors had paled and diked, and an orchard. He maintained a servant. The quarrel between the parish of St. Pancras and the hermitage was one of some standing, for his predecessors had set up the palings and dug the dikes, with the express object of stopping the processions—at least so the vicar alleged.

The vicar's statement suggests that the plaintiff had not long been in possession, and that it was uncertain how he would act. The reason why the parish should wish to pass through the hermitage grounds is not explicitly stated, but may be inferred from Newcourt's statement that Highgate was partly in the parish of Hornsey, and

¹ Calendar of Pat. Rolls of Edw. 3, 1395, p. 72.

² The point of this satire is that brewing was confined almost wholly to females

and was reckoned among the callings of low repute.' H. T. Riley, 'Liber Albus' (1861), p. 307, n. 2.

partly in that of St. Pancras, though the chapel was in the parish of Hornsey. The procession, attempting to force its way through the garden, was resisted by the plaintiff and two men armed with clubs. Blows were exchanged; numbers gained the day; and the hermit sought redress in the Star Chamber.

Vale v.
Broke.
Donyngton
v. Broke.
Smyth v.
Broke.

Actions for defamation were maintained in civil courts both before and after the Conquest.¹ They were frequent in local courts. Numerous examples are to be seen in 'Select Pleas in Manorial Courts'² and 'The Court Baron,'³ but 'no royal writ was devised for the relief of the slandered.' The cause⁴ of this was doubtless the claim of the Ecclesiastical Courts to take cognisance of such cases. Of the enforcement of ecclesiastical jurisdiction in this matter there are frequent examples, dating from 1490 (c. lxxix.), in W. H. Hale, 'Proceedings in Criminal Causes' from the Act Books of Ecclesiastical Courts (1847).

In taking cognisance, therefore, of an action for slander involving no Scandalum Magnatum the Star Chamber appears to have been extending lay at the expense of ecclesiastical jurisdiction. Slanders of persons of distinction were by 12 Ric. 2, c. 11, punishable by the advice of the Council. But W. Hudson, in his 'Treatise of the Court of Star Chamber,' cites no example of a private action for words heard by this Court, though there seem to have been actions for libel. He observes, however, that 'in all ages libels have been severely punished in this court; but most especially they began to be frequent about 42 & 43 Eliz. when Sir Edward Coke was her Attorney-General.' This refers to libels between private persons. It is conceived that the justification of the Court's jurisdiction in cases of slander of this sort was based upon the theory that the Court supplemented the defects of common and statutory law. Of this form of extension the cases of Vale v. Broke, Donyngton v. Broke, and Smyth v. Broke (pp. 38-45) are the earliest examples I have met.⁴

Attorney-
General v.
Parre and
others.

The case of Attorney-General Hobert v. Parre and Others (pp. 18, 19) is a fragment of the proceedings upon an information filed in the Star Chamber against a panel for perjury.

The punishment of jurors for a false verdict is described by

¹ See P. and M. 'Hist. of Eng. Law,' ii. 535, foll.

² Selden Soc. (1888).

³ Ib. 1890.

⁴ Several trials for slander are to be found in J. Hawarde's Reports, but they are chiefly for the slander of persons occupying official positions.

Forsyth and Stephen, followed by Pollock and Maitland, 'as an incidental result of the process called attaint.¹ It is true that the writ as given in Bracton (f. 291) orders the second jury to be summoned to try the original question of disseisin. But the chapter of Bracton (f. 288, b) under the rubric 'De conuictione sine attineta iuratorum qui male iurauerint' shews that the punishment was in his time regarded as an end in itself. It may be admitted, however, that in laying down the proposition that an attaint of perjury could only lie against jurors in an assize, because where litigants had put themselves upon the jury they had elected to take their verdict, Bracton appears to regard the perjury of jurors otherwise than as an offence in itself. The reason for this was that perjury was a matter for the Ecclesiastical Courts, and was only taken cognisance of by the Royal Courts when it touched the King. The assizes being a royal ordinance, the offence against their procedure committed by perjury was an offence against the King. This point of view was carried into jury trials 'si fiat jurata de aliquo quod tangat dominum regem' (id. f. 290, b). In that case an attaint of a perjured jury would lie. The process of attaint was a trial of the original jury of twelve by another jury of at least twenty-four. The justification of the imputation of criminality to the attained jury was that they were in theory of the law supposed to return a verdict as to facts known to them, Bracton expressly stating that the jury were excusable if there were difficulties in arriving at the facts (f. 290, b). If the verdict of the twenty-four were opposed to that of the twelve, the guilt of the twelve was *ipso facto* demonstrated, and they were arrested and imprisoned. Their lands and goods were forfeited to the King.² The consequences being so serious, the King granted writs of attaint sparingly, until by the Statute of Westminster the First, c. 38 (1275), it was provided that the King should henceforth grant them 'quant il semblera que besoigne soit,' which still left a large margin to his discretion. This was swept away by an Act of 1361 (34 Ed. 3, c. 7), giving a right of attaint to all, both in pleas real and personal³ (cp. 1 Edw. 3, st. 1, c. 6; 5 Edw. 3, cc. 6, 7;

¹ W. Forsyth, 'Hist. of Trial by Jury,' 1852, p. 181; Stephen, 'Hist. Crim. Law,' iii. 241; P. and M. ii. 541.

² Coke enumerates eight punishments attaching to the offence. Coke upon Littleton, 294, b.

³ Finlason maintains, citing Y. B. 14 Hen. 7, fo. 14, that in consequence of the highly penal character of attaint the

procedure was confined at common law to real actions (Reeves, 'Hist. of English Law' [1869], iii. 147, n.). The statutes of Edward 3 and the language of the Act of 1495 shew that, whatever the abstract doctrine of common law might be, the practice had been to bring actions of attaint in pleas personal as well as real. See also Coke, 2 Inst. 130.

28 Edw. 3, c. 8). Another Act (c. 8) of the same session of 1361 gave the party aggrieved an action for damages against jurymen who accepted bribes from the other side. These damages were assessed by an Act of 1364 (38 Edw. 3, st. 1, c. 12) as ten times the amount corruptly received, half to go to the King and half to the party grieved. But the venality of juries continued, and the law's delays threw obstacles in the way of checking it. A statute of 1433 sets forth the methods adopted by corrupt jurymen to protect themselves against the attainr. 'In times past in writs of attainrs, when the Grand Jury had appeared in court and were ready to pass their verdict ("fuist prest de passer"), one of the tenants or defendants or of the petty jurors named in such writs sometime have pleaded false and feigned pleas ("ount pledez faintes et faux plees") which were not triable by the grand jury of the attainr and by that means delayed the taking of such grand juries until such pleas were tried; and after such pleas tried and found for the plaintiff, another of the jurors tenants or defendants might plead another such false and feigned plea after the last continuance in the same attainrs ("puis la darrein continuance en mesmez les atteintes"); and so every of the defendants jurors or tenants, after other, might plead such false and feigned plea and delay the grand jury when it was ready to pass its verdict, and though that all such false and feigned pleas were found against them which pleaded, no pain was given them by the common law' &c. (11 Hen. 6, c. 4). It was sought to check these dilatory tactics by the provision that the plaintiffs should be allowed to recover their damages and costs against those availing themselves of them. But this did not put an end to the delays. The other litigant and each individual of the twelve jurymen against whom the writ of attainr had issued was free to put in his own plea of defence 'triable in whatsoever county that him pleaseth.' These were not feigned pleas, but pleas substantial to the issue. Accordingly damages did not lie under the Act of 1433. It appears, too, that after these pleas had been entered and tried, the grand jury had yet to be summoned to give a verdict on the whole case. The result was that plaintiffs in actions of attainr were baulked of justice 'by ten years or more in common estimation.' A new Act in 1437 therefore fixed the extraordinarily high sum of 20*l.* per annum in land as the qualification of jurors in attainr. The object of this was presumably to secure against corruption. In order to grapple with the device of dilatory pleas entered in counties outside the venue ('foreign pleas') judgement on such pleas was to be taken as a final judgement in attainr against the juror raising them (15 Hen. 6, c. 5).

An elaborate 'Act agaynst perjurye' (11 Hen. 7, c. 21), passed for the city of London in 1495, recites that perjury 'is muche and customably used' there among jurors. The Act endeavoured to suppress it by the same method of raising their qualifications, which were to be as much as 'of substance of c. li.' The Court of Husting was given a jurisdiction to try attaints, and the grand jury increased in number to forty-eight (11 Hen. 7, c. 21). For the rest of the country another Act was passed in the same session intituled 'An Acte for Writtes of Attaynt to be brought agaynst jurors for untrue verdictes' (11 Hen. 7, c. 24). Besides fixing the qualification of the grand jury of twenty-four at the yearly income of twenty marks (13*l.* 6*s.* 8*d.*) arising from freehold, the Act improved the chances of conviction by lowering the penalties. Where the verdict was for above the value of 40*l.*, the penalty on the attainted jurors was fixed at 20*l.* each; where below, at 5*l.* each. The grand jury in these smaller cases was qualified by freehold of the value of five marks (3*l.* 6*s.* 8*d.*) a year, or 'a c marc of godes and catalles.' In addition to the fixed minimum penalties of 20*l.* and 5*l.*, the justices received power to impose fines at their discretion. The Act, originally temporary, was continued by successive Acts (12 Hen. 7, c. 2; 19 Hen. 7, c. 3) to the end of the reign.¹ The mitigation of penalties confirms the statement of Coke (3 Inst. 163) that 'the punishment of perjury in jurors for a false verdict was so severe by the common law as few or no juries were upon first cause convicted.' The Act 'Pro Camera Stellata' did not expressly² confer on the Statutory Court an express power to punish perjuries. It would seem, therefore, that it derived its jurisdiction from another source, and we know, as a matter of fact, that the Council took cognisance of perjury in jurors.³ The extension of jurisdiction from this to perjury in general naturally followed.⁴

A glimpse into the administration of public gaols is given Tapton v. Colsyll.

¹ After its expiration it was re-enacted in 1532 by 23 Hen. 8, c. 3 ('An Acte concernyng perjurie & punysshement of untrue verdictes').

² Sir J. F. Stephen thinks that in this matter the Act did constructively sanction the practice of the Council to try perjuries. 'Hist. of the Criminal Law,' iii. 244.

³ Sir F. Palgrave, 'Essay' &c. (1834), p. 55. See also Coke, 3 Inst. 174.

⁴ Cf. Hudson, 'Of the Court of Star Chamber,' p. 51. As to perjury in general, on October 31, 1616, upon a demurrer to the jurisdiction of the Court for perjury of

a witness (Miles, a common informer), 'it was resolved by all the Courte, that this Courte maye determyne all periuries at the Common Law and that it was an aunciente Courte longe before Henry 7, & determyned causes and Richard 3 sate judiciallye in this Courte and the Lo. Chauncellour sayde that in Chauncellor Bromlie's time, Ser^gt Lovelace & Ployden had set there handes to a demurrer for such a bill of periurye & were convented & bitterlye reprehended by the Courte.' J. Hawarde, 'Les Reports' &c. (1894) ed. by W. P. Baildon, pp. 301-2.

both in *Tayllour v. Att Well*, already discussed, and in *Tapton v. Colsyll* (pp. 51-54). In this case, heard in 1495, the Mayor of Exeter, the defendant, had ordered his officials to arrest a widow living at Thorverton, or Thoverton. According to the plaintiff the order had been executed with brutality and personal injuries had been inflicted on her. She had been dragged off to gaol, presumably the city gaol at South Gate, where, even in John Howard's time, there was 'no chimney; no court; no water; no sewer.'¹ Here she was fettered with leg-irons, weighing, according to her story, more than 30 lb., and a chain besides, to await her trial on a charge of felony. As a justice of the peace had power by 34 Ed. 3, c. 1, to imprison certain persons therein set out, and the charge against the plaintiff seems to have been one of felony, her incarceration was presumably legal. Whether the infliction of irons was so is more doubtful. Bracton lays down the general principle that condemnation to fetters was illegal 'quia carcer ad continendos, non ad puniendos haberi debeat.'² Whether or not this proposition was borrowed from Ulpian,³ it was the principle which gradually won its way into English law.⁴ If this was the rule to be observed in the case of convicted prisoners, though Bracton admits that it was not universally recognised by the judges of his day, still more was it binding in that of the untried. 'It is forbidden, says the "Mirror of Justices,"⁵ some twenty years after Bracton wrote, that any one be tormented before judgement.' But the author agrees with Bracton that 'it is lawful for gaolers to put fetters upon those whom they suspect (of trying to escape),'⁶ though he limits the weight to twelve ounces. Britton, who was possibly contemporary with the author of the 'Mirror,' mentions other exceptions. 'As to prisoners, we will that none may be put in irons, but such as have been apprehended for felony, or are imprisoned in parks or vivaries, or detained for arrears of accounts,'⁷ the last of these being by Statute Westminster II. c. 11. Felony being capital, it may be that a suspicion of intended escape was an easily justified presumption, upon which the plaintiff in this case was dealt with. But the excessive weight was clearly incompatible with the spirit of Bracton as with the limitations expressed by the 'Mirror.' It speaks well for the promptitude of the criminal administration at this date that the prisoner was, in the course of the twenty-four weeks

¹ J. Howard, 'State of the Prisons' (2nd ed. 1780), p. 348.

² Bracton, 105, a.

³ See Pollock and Maitland, 'Hist. Engl. Law,' ii. 515.

⁴ It is quoted with approval by Coke, 3 Inst. 34.

⁵ Seld. Soc. 1893, p. 52.

⁶ Ibid. Bracton, f. 137.

⁷ Britton, ed. F. M. Nichols (1865), i. 44.

during which she was in gaol, thrice brought before commissioners of gaol delivery. It does not clearly appear why she was not either put on her trial or released. Possibly, as in modern usage, a removal was ordered on the first occasion pending the collection of evidence. If this were so, her subsequent imprisonment after the prosecution had had a reasonably sufficient time was undoubtedly oppressive. Coke¹ cites 5 Hen. 4, c. 10 (1404) as authority for the proposition 'that none be imprisoned by any justice of the peace, but in the common gaole, to the end they might have their triall at the next gaole delivery, or sessions of the peace.' The Act does not go so far, being designed to put down arbitrary imprisonment in private castles. But Coke's gloss states the practice in the case of imprisonment in common gaols based on c. 29 of Magna Carta, 'nulli differemus justitiam vel rectum.'²

Having been released after the third assize, the prisoner was re-arrested in default of finding sureties to keep the peace. Fitzherbert, in his '*Loffice de Justices de Peace*,' tells us that the justices can at discretion call upon any person to find surety of the peace and can imprison him in default until surety found. It was competent for such a person to sue out a writ of Supersedeas in Chancery, which, perhaps as a matter of common form, recited that sufficient security had been lodged in Chancery and ordered the immediate enlargement of the prisoner.³ Possibly the amount of the security was relaxed by the Chancellor 'in favorem libertatis.' It was by the humanity of some of the citizens of Exeter that the plaintiff thus obtained release and was able to petition the Star Chamber for redress of her wrongs.

A group of six cases brings before us the principal matters engaging the attention of the town populations. Of these the first, in which the celebrated printer Pynson was plaintiff (pp. 114-118), illustrates the jealousy with which, from time immemorial, the citizens of London had viewed the influx of aliens to compete with themselves in commerce or industry. The second, the *Abbot v. the Bailiff of Shrewsbury* (pp. 178-208), is an example of the friction which seems very generally to have existed between growing towns and the great ecclesiastical corporations in their midst. Of this state of things the secular animosities which mark the history of St. Alban's and Bury St. Edmund's are the best known. Another subject of lively interest to

¹ 2 Inst. 43.

² See Coke, 2 Inst. 315, on the Statute of Gloucester, c. 9 (1278), where it is expressly enacted that a homicide be tried at the next coming of the justices in eyre or the justices

of gaol delivery, for which he refers to cc. 26 and 29 of Magna Carta.

³ The writ is set out in Fitzherbert, '*Loffice de Justices de Peace*' (ed. 1617), p. 145, b.

the towns was the taking of toll, which does not fail to shew itself in the Shrewsbury case, but which is a main grievance in the dispute between the cities of Exeter and London (pp. 71-95), in *Couper v. Gervaux* (pp. 36-38), which involves a similar controversy between the cities of Salisbury and London, and in *Whyte v. the Mayor &c. of Gloucester* (pp. 225, 226). Two other cases bring before us the efforts made by Henry 7 to suppress notorious evils affecting the prosperity of the towns. Of these the first was the use of illegal and dishonest weights and measures, as set forth in the petition of the Lead Miners of Yorkshire (pp. 69-71); the other the throttling of trade and industry by the exactions of the gilds, as in the case of *Butlond and others v. Austen* (pp. 262-271).

Pynson and
others v.
Squyer.

The aliens affected the suburbs,¹ where they were free from the exactions of the municipal officers, who with the connivance of the corporation employed malicious chicane of all sorts with the object of driving them out of the country.² But in the suburbs they were liable to the unrestrained outbreaks of the mob. Such was the experience of Richard Pynson, himself a Norman, who petitioned the Star Chamber for redress against the violence of his neighbours of the parish of St. Clement Danes. His servants were probably like himself foreigners, the art of printing in England being less advanced than on the Continent.³ More than thirty years later, the University of Cambridge obtained a licence to appoint three stationers and printers or booksellers, either aliens or natives.⁴ Normans⁵ were specially employed in the printing of law books. There were also a large number of foreign letter-casters for printers.⁶ London at all times attracted a considerable number of resident aliens.

In 1464 a general petition was presented to Edward 4 from the 'handcrafty men and women' of London and 'other good citees, tounes, boroughs and villages.'⁷ The petitioners complained of the 'grete nombre & multitude of aliens and straungers of dyvers nations, beyng artificers, housholders & dwellers in dyvers citees, tounes,

¹ The brotherhood of the Conception of the Virgin Mary, incorporated in 1532, was for foreign artificers and handicraftsmen dwelling in London and the suburbs. S. P. Dom. Hen. 8, v. 766(7). Commissioners were appointed on December 3, 1528, to inquire into the number of resident aliens in London and a compass of two miles from the suburbs. *Ib.* iv. 4997.

² See the petition of the Joiners Strangers to Wolsey in 1521. S. P. Dom. Hen. 8, iii. 1530; cf. *ib.* 2736.

³ See examples in H. N. Humphreys, 'Hist. of the Art of Printing,' 1867.

⁴ S. P. Dom. Hon. 8, vii. 1026(27).

⁵ In 1536 John le Rowsse of Normandy, printer, gave evidence upon an inquiry into assaults upon Frenchmen in London. See the life of R. Pynson in 'Dict. Nat. Biog.'

⁶ T. Page, 'Historical Introd. to Calendar of Denizations' &c. (1893), p. xlix.

⁷ Rot. Parl. v. 506.

boroughs & villages . . . usyng such Hand craftes & havyng & setting a werke grete nombre of people in their houses of their own nations & none other' &c. That this grievance was not exaggerated may be inferred from the report of Marillac, the French ambassador, to Francis 1 on May 22, 1541. 'Les Anglois . . . sont si ignorans en toutes sortes d'œuvres mécaniques qui sont contraintz passer par les mains des étrangers, combien qu'ilz ne les ayment point.'¹ The uprising against foreigners in 1517, called Evil May Day, originated out of a conversation of one Lyncoln, a broker, with Dr. Bele, a canon of 'the Spital,' on the subject of the 'artificers straungers that tooke awaye all the lyuynge.'²

It is perhaps not to be wondered at that with the growth in importance of the trading community and the enlargement of their franchises by royal favour contests frequently arose against the proprietors of manorial rights. The clash of local rights was incessant throughout the Middle Ages. Especially was this the case where the landowners were wealthy monastic establishments, deriving their revenues, for the most part, from agriculture, and comparatively indifferent to the progress of trade. As corporations naturally disposed to be conservative, they were tenacious of their traditions and indisposed to slacken restraints which the mercantile community felt to be galling and tyrannical. As at St. Alban's and Bury St. Edmund's, so it was at Shrewsbury. Since the thirteenth century the town, increasing in numbers and consequence, had been seeking to extend the area of its jurisdiction, while the abbots, who if not lords of the manor held sundry manorial rights, such as the mills and a manor of increasing importance in the eastern suburb, had been resisting what they regarded as invasions of their privileges. But royal grants, themselves an encroachment on the jurisdictions of manorial lords, were to be had on payment of sufficient fees, and were constantly maintained by the exercise of royal authority. From such grants the townsmen of Shrewsbury conceived of their bailiffs, as they express it, as 'the King's lieutenantz' and their quarrel one in which they might invoke royal support.

The Abbey of Shrewsbury lay on the east bank of the Severn, separated from the town by the river, which was crossed by the Stone, now known as the English bridge. Between the abbey walls and the bridge there was a tract of ground with a few houses built upon it which retains to this day its name of the Abbey Foregate. There

Abbot v.
Bailiffs of
Shrewsbury.

¹ MS. R. O., Baschet's Transer.

² Hall's 'Chron.' pp. 586-7.

was evidence to shew that although this had belonged to the abbey, and had once been occupied with houses which had been destroyed by the Welsh, a compact had been entered into between the abbey and the town to leave it unbuilt upon in order that, in the event of war, a fortification might be erected on it for the protection of the bridge and the town. Whatever documents may have been put in as evidence before the Star Chamber, we know enough at the present day to assure us that the abbot's claim to manorial jurisdiction over this land was justified by precedent. The town, however, perhaps because sensible that upon the burgesses would fall the burden of the fortification contingently contemplated, had for many years asserted the right of jurisdiction over it, and had obstructed the taking of toll by the abbot's officers. The abbey had for some time been in an impoverished condition, and the toll was perhaps more rigorous than theretofore. There followed a series of squabbles and riots, and the appearance of the abbot in 1504 as plaintiff in the Star Chamber. It is clear from the documents that the town was fairly unanimous in its resistance. The names of those charged with disorder include its most substantial burgesses. Foremost among the champions of the town were the parishioners of St. Chad's, the parish nearest to the Stone bridge. Of nine names which it has been possible to trace, owing to the circumstance that their owners left wills, eight¹ are parishioners of St. Chad's.

The chief value of the case from the point of view of the history of law is in the light it throws on the constitution and early working of the Star Chamber already discussed.

This case consists of no fewer than twelve documents, of which very few are dated. Some difficulty has therefore been experienced in settling their order, for the quarrel between the town and the abbey raged during many years and defied the efforts of the Court to conclude it. The first document in order, lettered 'A' by me, is without date. It is an answer on the part of the town to a complaint by the abbot to the Star Chamber. Its date is approximately determined first by a reference in document 'B' to the fact that the bailiffs have brought up Richard Dicher, bailiff in 1502-3 for examination, which examination follows, lettered 'C,' and is dated February 6, anno xix. i.e. Henrici 7, i. (1504); secondly, a paper drawn up in 1509, when the quarrel broke out afresh, headed 'Summary of the Controversies' &c., states that the original complaint was filed in Hilary Term,

¹ Edward Knyght, David Ireland, Roger Luther, Richard Dicher, Richard Pope, Richard Lyster, Nicholas Waryng, Richard Purser.

19 Henry 7 ; i.e. presumably in January 1504; thirdly, the bailiffs in 'A' attack the abbot for being in London, to which he replies in 'B' that he is there attending Parliament. This must have been early in 1504. It is to be noted that the answers to interrogatories in document 'C,' the interrogatories being lost, are answers to eleven interrogatories, which are therefore evidently distinct from the undated seven interrogatories of document 'G.' Document 'D' is dated, being an exemplification of a decree of the Star Chamber of July 8, 1508. This exemplification has been inserted here at the date of the decree, though we know, as a matter of fact, that it was issued by Robert Rydon, clerk of the Council, on July 10, 1509 (S. P. Dom. Hen. 8, i. 289). Document 'E' is another complaint by the abbot. It speaks of Henry 7 as 'our late sovereign lord,' and petitions for an exemplification of the decree of July 8, 1508. It is therefore between April 22 and July 8, 1509. Document 'F' is 'The summary of the controversies' to which the abbot refers in document 'J' as a 'breviat' drawn up by him or on his behalf upon a former request by the Lord Chancellor. It refers to the decree of the Star Chamber of July 8, 1508, and is, therefore, later than that date.

Document 'G' contains seven interrogatories on behalf of the abbot, and document 'H' the answers. This last document has a very significant date and signature. It is signed by Robert Rydon on the last day of February. There is no date of the year. Reason has already been given for believing it not to belong to the earlier proceedings, the answers to the interrogatories in which are in document 'C.' It therefore belongs to the later proceedings, and is the sequel of a plaint and an answer, both of which have been lost. But it cannot be later than 1509 because Robert Rydon died between July 10 and October 19 of that year, when Mewtis succeeded to his place. It must, therefore, be dated February 28, 1509. The next document, 'I,' is dated October 14. It is a continuation of the examination of the witnesses upon the abbot's interrogatories 'G.' The interval which had elapsed since the previous examination may perhaps have been due to the illness and death of Robert Rydon. Perhaps document 'J,' the letter of the abbot to the Chancellor, intervened, for it refers to the issue of the exemplification on July 10, 1509. As, however, this is uncertain, I have thought it best to continue the answers to the interrogatories. The letter appears to have been written before the case came on in the Star Chamber, for it deprecates a petition by the bailiffs, which was perhaps included in the lost answer, for the case to be sent to the common law. Document 'K' is dated April 12, 1 Hen. 8 (1510),

and complains of language used by the abbot at the hearing in the Star Chamber, which, therefore, must have recently taken place. Document 'L,' which is a complaint or petition by the abbot, gives a continuous history of the riotous proceedings at Shrewsbury from July 21, 1509, when the exemplification of July 10 was publicly read, to St. David's Day following, that is, March 1, 1510. Curiously enough, it is indorsed 'xxij day of October anno primo Henrici Octavi.' That this is a blunder for 'anno secundo' is conclusively proved, first from the contents of the document already mentioned, and secondly by the fact that John Mewtis, who signs as clerk of the Council, was not clerk until October 19, 1510.

Hewyt and
others v.
Exeter,
Mayor of.

Among the obstacles to trade introduced by the avarice or necessity of the towns was the exaction of excessive tolls from merchants, whether of English or of alien blood, who were not free of their privileges. An instance of this, belonging to the year 1533, the offenders being the Mayor and Corporation of Hull, was published in the Select Cases in the Court of Requests, p. 39. In that case, as in the case of Hewyt and the Mayor and Corporation of Exeter v. the Mayor and Corporation of London (pp. 71-95), exemption from toll was claimed on the ground that complainants were tenants in ancient demesne. In the case of Exeter their privilege was fortified by express grants which the evidence shewed to have been respected by the Londoners until within a few years after the accession of Henry 7. As the poverty of the towns increased the mischief spread. Two years after this case came before the Star Chamber the legislature interfered. A Bill introduced into the House of Commons set forth in its preamble that the towns throughout the kingdom 'lately more and oderwyse than in tymes passed have distreyned levyed and taken of theym (Marchauntes Denysyns) a certeyn Costome called Skavage, oderwyse called Shewage, to ther gret charge and trouble, which Skavage was never used to be taken nor levyed but only of Marchauntes Straungers.' The penalty upon the offending official was the heavy fine of 20*l*. It is probable that this Bill, which passed into an Act intituled 'De Scavagio non recipiendo de Subditis' (19 Hen. 7, c. 8), was intended to include the City of London. It appears, however, in the statute-book with a concluding proviso originally written upon a separate schedule annexed to the Act. By this proviso the Corporation of London were exempted from the prohibition of the Act, subject to the fixing of their rates of scavage by the King in Council. Thus London gained at the expense of the

rest of the kingdom, obtaining a statutory recognition of a right which it had hitherto only ventured fitfully to assert.

The same disposition to increase tolls is shewn in the case of *Couper v. Gervaux* (pp. 36–38), where a goldsmith of London complains of the dues demanded from him at Salisbury Fair. In this as in other disputes the violence exhibited by the parties at variance seems disproportionate to the importance of the issue. It must, however, be remembered that the officials of a town had an immediate personal interest in keeping up the municipal revenues, seeing that they were the source of the payment of the fee-farm, often highly onerous, deficiency in which they were compelled to make up at their own expense. A striking instance of this is to be found among the records of the Corporation of Gloucester, a town whose exactions are the cause of a complaint printed in this volume. In 1487–88 they petitioned the King, on the ground of the decay of the town, for a remission of their ‘grevis fee firme of lxxv. li.’ They stated that the then bailiffs and those for several preceding years had been compelled to contribute 30% of that sum out of their own goods, ‘by reason whereof very many of the burgesses who seemed able from their good manners & means to fill the office of bailiff have left the town with their goods when they thought the time was coming for them to be elected bailiffs & others intend following their example, so that in a short time there will be no men left in the town with sufficient means to fill the said office.’¹

*Couper v.
Gervaux.*

It is noteworthy that in the case of *Couper v. Gervaux* no claim is set up by the plaintiff as a London citizen or by the City of London itself to try the case by the City’s representatives upon the spot.² Either this claim was not stirred because there were no wardens of the City at the fair of Salisbury, though that was one of the great fairs of the kingdom, or because the City’s privilege was in desuetude, presumably as being found to conflict with the local franchises. The 17 Edward 4, c. 2, recites that to every fair ‘est de droit apperteignant un Court de Peepowdrez a ministrer en ceo due Justice en cell partie; enquele Court il y ad toutz jours este accustume que chacune persone venaunt as tielx feirrez arroist loial remedie’

¹ Records of Corporation of Gloucester, Hist. MSS. Comm. xii. Rep. pt. ix. p. 406.

² ‘Because the citizens of London in all good & great fairs of England were wont to have wardens of themselves to hold pleas, concerning such citizens as shall have conference to the said fairs: it is

granted by charter that the same citizens shall have their wardens of their citizens for the holding of such pleas as of ancient times they have had, excepting pleas of the land & of the Crown.’ ‘Lib. Alb.’ 40, 1 Ed. 1; Colthrop, ‘Liberties &c. of London,’ 1642, p. 13.

&c. Here is no mention of the privilege claimed by the City of London, notwithstanding that this Act regulated the Courts of Piepowder throughout the kingdom. In 1484 it was made perpetual by 'An Act for tryall of matters in Courtes of Pypowder held in fayres' (1 Richard 3, c. 6), again without any exception.

Whyte v.
Gloucester,
Mayor of.

The great waterways of the country afforded an opportunity for the exaction of tolls which was not lost sight of by the municipalities of the riparian towns. In the Parliament of 1401 a petition had been addressed to the Crown by the counties of Salop, Hereford, and Stafford, complaining that whereas victuals had always been allowed to pass through Gloucester and Worcester duty free, so long as they were not offered for sale in these towns, extortionate tolls were being then demanded by their bailiffs.¹ The King returned the equivocal answer that there should be no departure from the customs hitherto observed, and that no extortion should be suffered. Possibly this favourable attitude towards the two towns was prompted by the antipathy to the Welsh which marks the statutes of that parliament. In 1411 the burgesses of Gloucester themselves, supported by those of Bristol, petitioned the Crown against the inhabitants of Beaudely, of the county of Salop generally, and of Wales.² These persons, according to their petition, combined together to force violently upon the merchants trafficking on the river the hiring of 'grosses bateux appelez Trowes' in place of rafts called 'flotes,' on which such goods as timber and fuel had been hitherto laden. The only answer vouchsafed was 'soit fait come ad este usez devant ces heures,' and no statute was passed. But the three counties which had been petitioners in 1401 joined, by way of reprisal, in a cross-petition of the same session (1411) against the men of Gloucester and Worcester, adding on this occasion those of the town of Bridgnorth.³ The Council therefore ordered the evidence for these exactions to be produced, alleging that it had obtained the authority of Parliament to effect a final settlement of the disputes. Apparently the claims of the towns to tolls were settled, but the old quarrel about the 'flotes' and 'trows' revived. A petition was presented to Parliament in 1427 complaining of the conduct of Welshmen and other dwellers in privileged places 'where the king's writ runneth not,'⁴ and asking for a statute enforcing the undisturbed user of the river. But the

¹ Rot. Parl. iii. 475, b.

² Ib. 665, b.

³ Ib. iii. 663, a.

⁴ The Marches of Wales. See Strange v. Kenaston, p. 274.

Lords Marchers were valuable supports of the English Crown, and the King, or rather his Council, refused the prayer.¹ Two years later the men of Tewkesbury presented to Parliament a long petition in English.² They set forth that the inhabitants of the Forest of Dene and the neighbourhood 'have come (being a) grete multitude of peple and routes of the Communes of the same forest and of the Hundredes of Biedislowe and Wesebury with greete ryot and strengthe in maner of Werre, as Enemys of a straunge land,' and have destroyed their Trows and robbed them of their merchandise. A proclamation having been issued for their suppression served but to add to the number and violence of the rioters. Eight trows were despoiled and some of their crews drowned. The rioters 'maneshud the owners of the saide goodes and the said trowmen that they sholde not be so tardy to carye no maner of vitaille by the seide streme for Lorde ne Lady.' The inhabitants of Tewkesbury petitioned, therefore, that the Sheriff of Gloucestershire or the Bailiffs of Gloucester should be ordered to make proclamation for the restitution of the stolen goods 'with resonable amendes.' In default of restitution and of the arrest and imprisonment of the offenders in Gloucester Castle, the Statute of Winchester should be enforced against the Hundred in which the robbery was committed.

By this statute, the great Police Act of Edward 1 passed in 1285, it was provided that the Hundred which failed to arrest felons guilty of offences within its borders should be answerable for any robberies they might have committed as well as for damages (13 Ed. 1, c. 2). The statute had been repeatedly confirmed, and by an Act of 1383 was ordered to be proclaimed four times a year in every hundred and market town.³ It is evident, nevertheless, that in 1429, the year of this petition, it was again in desuetude. The petition was granted, and became the statute 8 Henry 6, c. 27. From the petition which followed two years later it appears that if the Act of 1429 had exercised some effect in England, it had been a failure in Wales. Doubtless this was due to the chaos involved in the jurisdiction of the Lords Marchers.⁴ The petitioners, who seem to have been the inhabitants of Bristol, Gloucester, and Worcester, preferred a prayer revolutionary to the medieval sense of the importance of rights of jurisdiction. This was that the neighbouring counties might be made responsible. Par-

¹ Rot. Parl. iv. 333, a.

² Ib. 345, a.

³ Complaint being made that the Statute of Winchester was neglected, its enforcement was ordered in 1300 (28 Ed. 1, c. 17),

in 1328 (2 Ed. 3, Stat. of Northampton, c. 6), in 1331 (5 Ed. 3, c. 14), in 1354 (28 Ed. 3, c. 11), and in 1383 (7 Rich. 2, c. 6).

⁴ See pp. xciii-xcv, supra.

liament was satisfied to proclaim the empty principle that the passage of the river was free to all, and to refer the complainants to their nugatory remedy by action 'according to the course of the Common Law.'¹ The Government of Edward 4 may be inferred to have been successful in enforcing some degree of order from the change in the complaints as to impediments in the way of the free navigation of the Severn. That the previous outrages had caused a decline of its trade is evident from the statement of the next petition² (1464) that the banks of the tow-path, 'called a lyne weye,' were overgrown with wood, timber, and bushes. Apparently the petitioners looked to the riparian owners to maintain a clear road, but they neglected the duty and contented themselves with the exaction of tolls. Their interests must be presumed to have been too powerful to meddle with. The petition was rejected. It was not till forty years later that the strong administration of Henry 7 ventured to deal with this old-standing grievance. In 1504 was passed the Act intituled 'De Fluvio Sabrini.'³ It set forth the previous complaints, the legislature's attempts to find a remedy, and, finally, the declaration of principle of the Act of 1431 that the river was free. Notwithstanding this, the officers of the town of Gloucester and the city of Worcester had lately exacted impositions from trows and boats passing through. A penalty of 20*l.* was accordingly laid upon any person demanding such tolls, of which two-thirds should go to the King and the remainder to the party grieved or to the common informer. The only exceptions admitted were where riparian owners could shew damage done which justified a claim to compensation, and where any person or corporation could satisfy the Star Chamber before Ascension Day, 1505, of their right to take toll.

The case of Whyte against the municipalities of Gloucester and Worcester, which arose out of these circumstances, differs from the other cases in this volume in that it is not a litigation. It is rather in the nature of an opposition to a Bill, since, under the Act of 1504, proof of right to take toll allowed by the Star Chamber would give it a parliamentary sanction. The case illustrates the incessant conflict of jurisdictions which furnished so much material for litigation in the Middle Ages; the nature of the inland trade passing by the Severn; the value to towns of the exemptions granted by their charters; and the jealous conservation of the privileges of the City, whose allegiance so often determined the succession to the Crown, the City of London.

¹ 9 Hen. 6, c. 6.

² Rot. Parl. v. 569, b.

³ 19 Hen. 7, c. 18. This is the earliest statute in which the Star Chamber is

mentioned. D. Barrington, 'Observations on Ancient Statutes,' ed. 1796, p. 438, note w.

The concluding section of this Act gave rise to the proceedings before the Star Chamber, here printed under the titles of 'The Petition of the Mayor &c. of Gloucestre,' 'The Petition of the Baillys & Citesyns of Worcestre,' and 'Whyte against the Mayor & Burgesses of Gloucestre' (pp. 209–226). The Act provided that any person or body corporate who could before Ascension Day (May 1), 1505, 'make eny sufficient profe and lafull title' to any duty or imposition for vessels or goods passing on the Severn should receive a decree in their favour legalising the right claimed. The two petitioning towns in these proceedings claimed dues by prescription and produced evidence in their favour. Just as at this present day a petitioner is heard against a private Bill, Thomas Whyte, a merchant, filed a Bill before the Star Chamber denying the prescription. That he was successful may be inferred from the Act 23 Hen. 8, c. 12 (1532), intituled 'An Acte for takinge exaccions upon the pathes of Severne.' In the Act of 1504 nothing was said about paths. The petition, which is incorporated in the Act, forbids the taking of impositions &c. for vessels laden with goods or merchandise 'caried or conveyed in and uppon the seid Ryver and Water of Severn.' It is unfortunate that the decree of the Star Chamber is lost, but it is probable that, after the fashion of the statute, it embodied the petition or was perhaps restricted to a declaration that the towns of Gloucester and Worcester had shown no sufficient cause for exemption from the prohibition. From the Act of 1532 it appears that the dispute had been revived by the demand of a toll, not for passing on the water, but for the use of the towing-path. This demand that Act declared illegal, reserving a free towing-path, which it affirms to have been used of right from time immemorial, of a foot and a half broad on each side of the river, for the use of hauling vessels.

Since the days before the Conquest the kings had endeavoured to secure uniformity of coinage and of weights and measures. A law of Edgar ordered one currency for the kingdom and the use of the weights and measures customary at London and Winchester.¹ They were to be tested by public authority.² The laws of William the Conqueror 'de mensuris et ponderibus' (iii. 7) enacted 'quod habeant (civitates et burgi &c.) per universum regnum mensuras fidelissimas et signatas et pondera fidelissima et signata, sicut boni prædecessores statuerunt.'³ Richard 1's Assize of Measures in 1197, therefore, only

Lead Miners
of Yorkshire
v. Merchants
of York.

¹ 'Die Gesetze der Angelsachsen' (Leipzig, 1858), p. 193.

² Cnut's 'Gesetze,' ii. 9. De justo pondere. Ib. p. 274.

³ Ib. p. 355.

added to the existing law the machinery for its enforcement, viz. the appointment of four or six men in each city, borough, and county to supervise its execution, with the forfeiture of chattels as a punishment for selling by unauthorised weights and measures.¹ He also devised the maintenance of a standard at London, and, according to the citizens of London in 14 Ed. 2, 'omnes mensuræ Angliæ examinatæ fuerunt et factæ concordēs et in Londoniis standarda regia posita.'² Even the itinerant justices, to whom in 1194 and 1196 the duty was entrusted of exacting the penalties, were reluctant to interfere with local usage. On the other hand, the Church strove to promote honest dealing in this as in other transactions,³ though it left legislation and the execution of the laws to the secular authorities.⁴ An effort was made by Magna Carta⁵ to check the confusion.⁶ The execution of this clause was vigorously taken up by Henry 3 on his progresses. In 1228 he himself superintended the destruction of false weights and measures.⁷ His example was followed by Edward 1, who in 1303⁸ issued an 'Assisa de Ponderibus et Mensuris,' a complete statement of all the authorised weights and measures and their mutual relations. Under Edward 3 Parliament took up the question with vigour. Standard weights and measures were to be sent into every county and two surveyors appointed in each to enforce the law.⁹ To this was added in 1357 the provision of standard balances.¹⁰ In 1361 the King was empowered to appoint justices in every county to inquire as to the enforcement of the statutes.¹¹ But every town felt the interference of the King to be an invasion of its liberties. The centre of trade,

¹ R. Hoveden, 'Cronica,' ed. W. Stubbs (1868-71), iv. 33, 34.

² 'Liber Custumarum' (Rolls Series, 1860, ed. H. T. Riley), p. 383.

³ 'Sententia excommunicacionis. At the begynnynge God and halekirk corses . . . al tha that byes or selles with fals mesours or fals wegtes that es to say, bies with ane and selles with another. Also al tha that falses the kings standard thaim wyting.' MS. temp. 14th cent. Hist. MSS. Comm., 5th Report, Append. (1876), p. 306.

⁴ S. Thomas Aquinas, Summa secunda secundæ, qu. lxxvii, Art. 2. See W. J. Ashley, 'Economic History' (2nd ed. 1892), I. i. 178 &c.

⁵ C. 35. Una mensura vini sit per totum regnum nostrum, et una mensura cervisiæ, et una mensura bladi, scilicet quarterium Londoniense, et una latitudo pannorum tinctorum et russetorum et halbergettorum, . . . de ponderibus autem sit ut de mensuris.'

⁶ In 1758 was published 'A Report from

the Committee to enquire into the original standards of weights and measures in this kingdom, and to consider the laws relating thereto with the proceedings of the House thereupon.' This report gives a list of statutes upon the subject, with remarks upon some of them. See also a memorandum on the history of the Law of Weights and Measures, by Sir J. Popham, A-G (1581-1592) in S. P. Dom. Eliz. vol. 158. 66, 67 (MS. R. O.).

⁷ M. Paris, 'Hist. Min.' ii. 299 (ed. Sir F. Madden, 1866).

⁸ This is the date assigned by G. Schanz, 'Englische Handelspolitik' (1881, i. 579), upon whose sketch I have mainly relied; but in the Statutes of the Realm it is entered as 'incerti temporis.'

⁹ 14 Ed. 3, st. 1, c. 12 (1340). See also 25 Ed. 3, st. 5, c. 9; 27 Ed. 3, st. 2, c. 10; 34 Ed. 3, c. 5; and 13 Ric. 2, st. 1, c. 9.

¹⁰ 31 Ed. 3, st. 1, c. 2.

¹¹ 34 Ed. 3, c. 6.

the City of London, notwithstanding the formal adoption of its standards, was notoriously inclined to sharp practices. In 1284 complaint was made that the citizens sold by one weight and bought by another,¹ content to pass nugatory ordinances that weights and measures should conform to those of the King.² Edward 2's treasurer, Walter de Stapledon, distributed brazen standards of measures throughout England in 1320.³ In 1344 the complaints of the exactions of the Royal Commissioners in their execution of these laws compelled Edward 3 to withdraw their powers.⁴ Their place was taken in 1361 by the justices of the peace, who would naturally be more tender to local feeling.⁵ The result was that in 1389 the Commons again petitioned for the enforcement of the law. What slender hopes the Government entertained of arriving at uniformity is shewn by the statute which followed. While the heavy penalty was imposed of six months' imprisonment and twofold restitution to the complainant⁶ an exception was made in favour of Lancashire 'acause gen le dit Counte ad este de tout temps plus graunt mesure qe en ascun autre partie du roialme.'⁷ Even the law of Edgar, accepted as the law of the land during more than four centuries, failed to overcome the persistent vitality of local corn measures.⁸ By an Act of 1429 'every city borough or town' was ordered to provide itself with balances and weights at its own cost sealed and according to the common standard of the Exchequer,⁹ while the provisions of Magna Carta and of the Acts of Edward 1 and Edward 3 and Richard 2 were confirmed. But four years later Government was again deploring the inefficacy of these measures, to remedy which it again resorted to improving the machinery for putting them into execution. Every mayor and justice of the peace was to be sworn to enforce the Acts.¹⁰ Immediately after his accession Henry 7 distributed standard weights and measures to every county¹¹ and set up 'King's Beams' in a number of ports.¹² Nevertheless, in 1491 Parliament declared again that these enactments had not

¹ 'Liber Albus' (ed. H. T. Riley, 1859), p. 285.

² *Ib.* pp. 273, 278.

³ 'Lib. Cust.' p. 382.

⁴ Rot. Parl. ii. 155, 156, although the Commons had petitioned for the enforcement of the law in 1343. *Ib.* p. 141, a.

⁵ 34 Ed. 3, c. 5.

⁶ The reason of this doubtless was that in the previous session the Commons had expressed the opinion that the existing fines had proved useless. Rot. Parl. iii. 267, b.

⁷ 13 Ric. 2, st. 1, c. 9 (1390). Rot. Parl. iii. 270, a. This was in accordance

with the general economic policy of the Middle Ages in favour of the consumer.

⁸ 15 Ric. 2, c. 4 (1391). It was thought necessary to mention that the mayor and sheriffs of London would be equally liable with the officials of other municipalities for the non-observance of the law.

⁹ 8 Hen. 6, c. 5 (1429).

¹⁰ 11 Hen. 6, c. 8 (1433).

¹¹ Dec. 30, 1485. Campbell, 'Materials,' i. 226; ii. 102.

¹² Feb. 20, 1486. *Ib.* i. 302; July 9, 1486. *Ib.* 574.

been duly executed. Apparently among other causes of their neglect was the omission of the towns to provide themselves with the standard weights and measures. 'An Acte for Waighthes & Measures' was therefore passed by which the duty was imposed upon the Crown of providing the chief officers of every city or borough with 'weightes and mesuris of brasse according to the very true standard.'¹ Possibly Henry 7's penuriousness indisposed him to bear the cost of carriage, for another Act with the same title, passed in 1495, recited that the former statutes had not been observed or kept, and ordered that the standard weights and measures should be delivered to the members of Parliament for conveyance. Weights of tin in Cornwall and Devonshire were exempted from the Act. Forty-three cities and boroughs were named in which the authorised standards were to be preserved. Penalties were inflicted for buying or selling by other weights and measures: 6s. 8d. for the first offence, double penalty for the second, for the third 20s. and the pillory.² The standards were issued. They were speedily found to be defective, and by an Act of 1497³ were ordered to be returned at the expense of the towns and new ones substituted. This measure appears to have proved so far effective that it was followed by a long period of legislative inactivity.⁴ The secret of this success probably was that the statute imposed upon the municipal authorities the duty of examining, testing, and weighing the weights and measures twice a year and of destroying those that were faulty, coupling with it the privilege of receiving the pecuniary penalties inflicted. The Londoners continued unreformed,⁵ for by charters of 1319, 1400, 1509, and 1518 the duty of regulating their weights and beams was formally granted to the mayors &c., and they retained the practice of using double weights, 'cest assaver un plus grande pur achater et un autre meindre pur vendre,' denounced by the statute of 1340 (14 Ed. 3, st. 1, c. 12). This is precisely the complaint made by the lead miners of Yorkshire in their case against the merchants of York. Where the classes whose interests were involved controlled the execution of the statutes it was easier to pass Acts of Parliament than to enforce them. Even as late as the reign of Elizabeth the merchants of the

¹ 7 Hen. 7, c. 3: 'An Acte for Waighthes and Measures.'

² 11 Hen. 7, c. 4: 'An Acte for Wayghtes and Measures.'

³ 12 Hen. 7, c. 5. According to a paper, in 'Philosophical Transactions,' vol. lxxv. pt. i. Paper III. (London, 1775), Henry 7, at this time introduced the Troy pound, which was heavier by three-quarters of an

ounce than the old English pound, and a bushel one-sixth part larger than the old English bushel measure.

⁴ The towns themselves replaced their worn-out standards. See S. P. Dom. Hen. 8, i. 18 (1509).

⁵ For their fraudulent dealings in liquid measures see S. P. Dom. Hen. 8, v. 1716.

Low Countries were still complaining that they lost '12 in the hundred by diversetye of waightis, being bound to sell by the Quenes waightis and to bye by the waightis of London.'¹ Elsewhere the Crown appointed commissioners from time to time to make inquisition into false weights and measures.²

Before the accession of Henry 7 the growing power of the gilds had been assailed by the legislature. In 1437 an Act was passed (15 Hen. 6, c. 6) reciting that 'the Masters, Wardens & people of divers Gilds, Fraternities & other Companies Incorporate, dwelling in divers parts of the realm, oftentimes by colour of rule & governance and other terms in general words to them granted & confirmed by charters & letters patents of the King's progenitours, make among themselves divers unlawful & unreasonable ordinances as well of such things whereof the cognisance, punishment & correction only pertain to the King, Lords of franchises & other persons & whereby our sovereign lord the King & others be disherited of their franchises & profits; as of things which sound in confederacy for their singular profit & common damage to the people.' It was therefore provided that all such gilds should bring their letters patents and charters 'to be registered of record before the Justices of the Peace in the counties or before the chief governors of the cities, boroughs & towns' to which they belonged. This statute was to stand during pleasure, and presumably expired with the deposition of Henry 6, since the preamble of the Act of 1504 alleges that it had already done so. The Act of Henry 6 respected municipal privilege by retaining to the municipal corporations the right of approval of amendments introduced into their statutes by the gilds within their jurisdiction. But as these corporations would themselves be composed of members of such gilds, they were likely to be favourable to changes proposed by them. At any rate the preamble of the Act intituled 'De privatis & illicitis statutis non faciendis,' passed in 1504 (19 Hen. 7, c. 7), recites that since the expiration of the Act of 1437 'divers & meny ordinaunces have ben made be meny & divers private Bodys Corporate within Citie Townes & Boroughes contrarie to the Kinges prerogatyfe his Lawes & the Comon weyll of his Subgiectes.' The particulars of the ordinances which the Parliament of 1437 considered 'unlawful & unreasonable' are not precisely specified by the Act of that year.

Butland v.
Austen..

¹ 'A briefe declaracion of such thingis as the marchauntis of the Lowe Countrey fynde them selves greved with their using in Englande.' Brit. Mus. Cotton MS. Vesp.

c. vii. fo. 98. G. Schanz, 'Englische Handelspolitik' (1881), ii. 379.

² E.g. in 1521, S. P. Dom. Hen. 8, iii. 1262.

But the omission is curiously filled up in the preamble of the statute of 1504, which, professing to recite the tenour of the former Act, interpolates the words 'as well in pricis of weyres as other thinges.' The second clause of the Act of 1504 discloses the opinion of the Government of Henry 7 as to the cause of the innovations it deplored. 'It is enacted that none of the same bodies Corporate take uppon theym to make eny actes or ordinaunces to restreyne eny person or persones to sue to the Kynges Highnesse or to eny of his Courtes for due remedy to be had in their causes, ne putte ne execute eny penaltie or punishment uppon eny of them for eny suche sute to be made, uppon peyn of forfeiture of xl li. for every tyme that they doo the contrarie.' Of the alternative modes of redress offered to the aggrieved complainant the former evidently indicates the King's Council, whether sitting in the Star Chamber or elsewhere.

Not satisfied to enforce penalties upon infractions of the law, the Act of 1504 sought to bring the gilds, and incidentally the municipalities, under the control of the Central Government. They were prohibited from making any ordinances, or even acting upon those already in force, until 'the same actes or ordinaunces be examyned & approved by the Chaunceller Tresorer of Englonde & cheffe Justices of ether Benche or thre of them, or before both the Justices of Assises in ther cyrcuyte or progresse in that Shyre wher suche actes or ordinaunces be made' upon pain of a like forfeiture of 40*l*.

This statute, both by its encroachment upon the customary right of the municipalities to fix prices and by the transfer to the royal judges of so important a part of their traditional powers, marks an important step in the increasing centralisation of the Government. No doubt it served the ancillary purpose of bringing in fees to the Exchequer. It has even been maintained that this was its real object. The historian of the Leathersellers' Company of London tells us that the Company 'soon felt itself exposed to heavy penalties, under this statute, for acting on the old ordinances.'¹ Agreeable as such a design would be to the general fiscal policy of Henry 7, it scarcely furnishes an adequate explanation of the Act of Henry 6. Nor, in the case of the Leathersellers, does it appear that the Company was actually fined, though probably a fee was charged upon the presentation for approval of its new ordinances in February 1509. The fact is that as the exactions of the gilds were a chief cause of the decay of the towns which had been for some time in progress, they grew in proportion as that decay contracted the area of their resources. The

¹ Black, 'History of the Leathersellers' Company' (1871 p. 45.

Act of 1531, intituled the 'Acte concernyng the avoydyng of Exacyons levved upon Prentyses' (22 Hen. 8, c. 4) regards these exactions as an evasion of the Act of 1504. The language of Bacon, in speaking of this statute of 1504, is scarcely too strong, that the gilds were 'fraternities in evil.'¹ That Government, in clipping their wings, had the sympathy of the poorer artisans is apparent from another statute of the session of 1504. The 19 Hen. 7, c. 17, 'De Worsted Sherers,' repeals the privileges granted to the worsted shearers of Norwich by 11 Hen. 7, c. 11, on the ground, *inter alia*, 'that they will nott admitte eny man to the sheryng of Worstedes though he have sufficient connyng therin wythowte he wyll compoune wyth them & make grett & importable fynes, by force wherof divers & meny of the Shere men lately inhabitauntes of the seid Citie be departed owt of the same Citie into the Contre and so divers and meny howeses wythin the seid Citie be now unoccupied & decayed & dayly more ar lyke to be, to the grete desolacion of the seid Citie' &c. The statute 'For Apprentices' of 1536 (28 Hen. 8, c. 5) and the case of Butlond and others *v.* Austen and others (pp. 262-271), brought before the Star Chamber in 1508, furnish evidence to the same effect. According to the complainants in this case, the defendant when an official of the Founders' Company in 1505 compelled the members of the Company to sell their wares to him at a price fixed by himself, afterwards reselling them to the public at an enhanced rate. As this proceeding was based upon 'an acte' of the governing body, it fell within the statute of 1504. In accordance with the provisions of that Act, informations were laid in the Court of Exchequer by aggrieved founders, and notwithstanding the fact that, in conformity with the privilege of the City of London, the case was tried before a City jury, the defendants to one information were fined 40*l.* and costs. To meet these expenses they, with the assent of the governing oligarchy, sold the plate and jewels of the Company. These it was the prayer of the petitioners to the Star Chamber that they should be compelled to restore. In this case we know from the annals of the Founders' Company that the plaintiffs were successful.

There are a few interesting sidelights upon the period cast by these cases. Among these is one derived from the investigation of the lives of those persons of consequence who have not found a place in the pages of the 'Dictionary of National Biography.' The fall of Richard 3 may be inferred from these to have been due to a great uprising of public opinion, provoked by the general belief that he was

¹ 'History of King Henry 7' (ed. Spedding and Heath, 1870), p. 223.

the murderer of his nephews. In no fewer than ten instances there appears ground for belief that he was deserted by his political partisans, some of them the representatives of influential Yorkist families who had long fought for their party in the field. These instances are those of Sir Nicholas Mountgomery (p. 58, n. 8); Sir James Blount (p. 64, n. 2); Sir William Martyn (p. 81, n. 13); Thomas Kebell (p. 131, n. 4); Edmund Hampden (p. 155, n. 8); Sir John Harecourt (ib.); Thomas Lygon (p. 216, n. 3); Sir Richard Dalabere (p. 234, n. 2); and Sir John Lyngen, father and son (p. 235, n. 5).

Of the state into which the religious houses had fallen we get a glimpse in the two cases of the Abbey of Bath and the Abbey of Malmesbury. In the case of the Abbey of Eynesham the defences of the house and the weapons at the disposal of the monks illustrate the lawlessness of the times. The servants here, as elsewhere, in attendance upon the monks seem to have been disproportionate in number to the community. Even the College of Stratford-on-Avon was able to furnish a contingent upon occasion to put down a riot (p. 233). This was doubtless one of the means whereby the monasteries wasted their substance in imitation of the feudal lords. The Prior of Bath, who pleaded poverty, was accustomed, as we learn from the Abbot of St. Augustine's, Canterbury, to ride 'with xvij horses or therabout and his seruantes all in one lyvery or clothing' (p. 34). In the instances of Bath, St. Augustine's, Canterbury, Malmesbury, and Eynesham the names indicate that the religious houses recruited the ranks of their members from dwellers in the neighbourhood.

Although riots were of every-day occurrence and weapons were drawn on slight provocation, drunkenness by no means played the part in the fifteenth century that it does in affrays of to-day. There is only one case in which it is mentioned. That is in the case of the Abbot of Eynesham against Sir Robert Harecourt, in which an assault is said to have been provoked by abusive language on the part of a drunken servant of the monastery (p. 161).

In conclusion I desire to express my thanks to Professor F. W. Maitland, of Cambridge, both for kindly reading my proofs and for valuable information and suggestions, as well as to Mr. E. Salisbury, of the Public Record Office, for his patience and skill in deciphering portions of documents obliterated by time and ill-usage, and otherwise aiding my researches.

I. S. LEADAM.

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A To the kyng oure Soueraigne lord ²

evill entretid, that he was in dispayre and jupardie of his lyfe and so manassed and put hym in suche fere that he dar not dwell withyn the seid Cite And also the seid mysdoers and riotours contynuyng their vnlauffull confederacy and mysdoynge, assembled theym the Fryday next after ⁸ the seid fest of Seynt Marke in the seid Cite with grete force and in riotous wyse came to the house of oone Richard Longe and there made assaute vppon hym beyng in his house manassyng to sle hym without he wold be of their confederacy or els departe oute of the seid Cite and dwell not withyn it, and this the seid mysdoers by coloure of youre lettres patentes for theym and other of the seid mystere opteigned contrarie to the old libertees customes and lauffull vsages of the seid Cite had and vsed, accompaigned theym with many evyll disposed and nasty persones and makyth dayly dyuers conuenticles confederacions and vnlauffull assembles contrarie to your lawes, disobbeying the seid Maire and other officers of the seid Cite and woll not be correcte by theym to the grete disturbance of youre liege people and of youre peas withyn the seid Cite and in subuersion of the old libertees customes and rules vsed and had for the welle peas and good gouernell ⁹ of the same Cite, not oonly to evill and perillous example, but also fynally to the distruccion of the seid Cite, without youre good grace beshewyd in this behalfe, it Please therefor your highnesse of youre most habundant grace to conside the premysses and theruppon forasmoche as the seid John Stoddon Richerd Turnour and John Tylham be here ¹⁰ withyn youre Cite of London to commaunde theym by a seriant of Armes ¹¹ to appere afore youre highnesse and the lordes of youre most honourable Councell to Aunswere to the premysses, And ouer this it please youre good grace to graunte seuerall lettres of prerie seall directe to the other of the seid mysdoers commaundyng theym by the same to appere afore youre highnesse and the lordes of youre seid Councell at a certeyn day to Aunswere to the premysses, And ouer that such correccion to be had in thus ¹² behalf as it may be an example to other so mysdoynge, And thus for the loue of God.

Indorsed. The maire and bailiffes of the Citee
of Excestre versus John Stoddon
Richard Turnour and other of the same. }

⁸ The context seems to indicate that the Friday next after the Saturday following St. Mark's Day is intended—i.e. May 5.

⁹ More commonly governail, government.

¹⁰ It would seem from this that the plaintiffs had promise of an immediate hearing. The historian of Exeter, John Vowell (alias Hoker), Chamberlain of the

city, temp. Elizabeth, states that two years elapsed between the riots and the judgment. Toulmin Smith, p. 302. Large expenses were incurred by the Corporation in getting evidence and making journeys to London, 'pro materia Cissorum' (id. p. 304).

¹¹ See p. 247, n. 9. Also Introd., p. xxvi.

¹² Sic.

- B. This is the Aunswere of John Stoden and Richard Tournour to the bill of complaint of the Maire Bailliffes and Cominaltie of the Cite of Exceter.

The seid John Stoden and Richard Tournour seyen that as for eny thyng surmitted to be doone by them or eny of theym with force and armes riotously or a geynest the kynges peace they be therof not gyltye And that they be redy to prove by all suche meanes and weyes as your wysedomes and good lordeshippes shall assigne And as for eny thyng surmitted to be doone by them to the seid Thomas Davy and Richard Longe they seye that the kyng oure soueraign lorde of his grace especiall and for othere diuerse consideracions hym movyng by his lettres patentes¹ redi to be shewed among othere thynges graunted to his liege men of the mistere of taillours within the Cite of Exceter that they of theym self and othere myght make and stablisse for euer A Gylde or a Fraternite in the worshipp of Seint John the Baptist² And that Gylde or Fraternite soo vnyed³ founded create erecte and stablissed have hold and the same enyoye to theym and their successours for euer to endure And that they the same Gylde or Fraternite may encrease and augment as often shall please or shalbe nedefull to theym for the gouernaunce kepyng and regiment of the seid Gylde or Fraternite imperpetuyte as it shall best please theym And ouer that oure seid soueraign lord of his habundaunt grace by his seid lettres patentes hath graunted to the seid maister and wardens and here⁴ successours that they the foreseid Gylde Fraternite or Craft within the seid Cite and in the suburbies of the same may ordeign and rule and the defaictes of the same and of here seruauntes by the menyng of the worthiest and most sufficient men of that Craft to correcte and amend And also that the seid maister and wardens and their successours maisters and wardens of the foreseid Fraternite for the tyme beyng for euer haue and make full serche in and of the seid Craft And all othere persones wheche bene or shalbe priuilegied with the seid Craft within the seid Cite of Excetour and the Suburbies of the same and of suche Craftes as they or eny of theym vsen or vseth or before tymes haue vsed And all defautes amonge theym founden after their discreccion by the surueiu of the mayre of the seid Cite for the tyme beyng thei may correcte and reforme, After whech grauntes so made

¹ These are dated November 17, 1466 Cal. of Patent Rolls, Ed. 4, 1461-67, p. 543). The tenour of the patent is correctly set forth by the defendants.

² A patron saint of Tailors, e.g. of the Merchant Taylors' Company of London, a former master of which company, Sir

Thomas White, founded St. John Baptist's College, Oxford.

³ Unyed, united.

⁴ Obsolete form of the possessive pronoun, 3rd pl. See J. A. H. Murray, Eng. Dict. s.v. 'Her.'

and notwithstanding the same the maire and the Bailliffes of the same Citee nowe beyng will not suffre the seid maister and wardens to plede or implede eny persone within the Courte of the same Citee nor in anny Accion to Appere by the name of there corporacion contrarie to the lawe and all maner justice And for asmuche as the seid Thomas Dauby and Richard Longe occupieden and excersised the mistere and craft of Tayllours within the said Cite And that it was enformed the seid John Stoden than beyng maister of the said mistere And Richard Tournour than beyng oone of the wardens of the same mistere that the seid Thomas and Richard Longe occupied the seid mistere and were not of connyng nor able to vse the seid mistere and also mysse vsed the same to the gret hurte of the kynges Liege peple Thei for the welt of the same peple accordyng to the seid lettres patentes come to the dwellyng houses of the seid Thomas Dauby and Richard Longe within the seid Citee in pesible wyse to serche and see howe and in what maner of wyse they occupied and excersised the seid mistere And than and there willed And on the kynges oure soueraign Lorde is behalve charged theym that thei shuld occupie and excersise trulie the seid mistere soo that the kynges Liege people were not by them desceyved And theruppon the maire of the seid Citee and Bailliffes of the same by the sturring of the seid Thomas Davy and Richard Longe with gret multitude of people assembled with gret force and in riotouse wyse assaulted the seid John and Richard Tournour soo that they were in gret fere of their lyves And yitt dailie contynue in their malice soo that the seid John and Richard Tournour dare not abide and dwell in the seid Citee for fere of their lyves ⁵ All wheche matiers the seid John Stoden and Richard Tournour be redy to proue as youre gret wisdames and Lordeshippes will a ward And prayeth that they maye be dismissed fro this Courte as all good feith and thought require And that your Lordeshippes wold cause the seid maire and Bailliffes to content vnto the seid John and Richard Tournour their costes and exspences that they have wrongfully susteyned in this behalve And also to comaund the seid maire Bailliffes and Cominaltie and eueryche of theym to kepe the kyngis peace ayenst the seid John and Richard Tournour vppon suche a payne as shalbe thought by your gret wysdomes most requisite and behofull in that be halve And this for the love of Jhesu and in the wey of Charitee.

⁵ Retaliatory violence was inflicted by the Gild on those members who were in-

duced by the Corporation to renounce the Gild. See Toulmin Smith, p. 323.

c. This ys the Replicacion of the Maire Baillifes and Cominalte of the Cite of Excestre to the Aunswere of John Stoddon & Richard Turnour.

The seid Maire Baillifes and Cominalte sayen that the seid Aunswere is insufficient to put theym to Aunswere vnto, Wherfor they pray that for the nonsufficiente therof, that the said John and Richard may be punysshed accordyng to their deserte &c. And ouer this the said Maire Baillifes and Cominalte sayen that the seid John Stoddon and Richard Turnour bene gylte of the riottes brekyng and disturbaunce of the Kynges peas in maner and forme as ys allegged in their said bille, and that the said Cite is an old Cite and of tyme that no mynde ys hath bene corporat of Maire Baillifes and Cominalte,¹ And that the Maire and Baillifes of the same Cite for the tyme beyng by all the said tyme haue vsed and had all serches correccion and punysshement of all maner offences and defaltes by any persone aswell artificers as other done withyn the liberte of the said Cite, and in like wyse the Reuerend Fader in God the Bysshoppe of Excestre and his predecessours withyn their fee called Seynt Stevynes fee withyn the same Cite, and also the Dene and Chapiter of Excestre and their predecessours withyn their fee callid Seynt Sydwellis fee in the Suburbes of the said Cite by their officers by all the said tyme haue vsed and held serches correccion and punysshement of all defautes and offences done by any persons artificers or other withyn the same fees, so forasmoche as the said John Stoddon and Richard Turnour claymeth in their seid Aunswere suche serches correccion and punycion withyn the seid Cite and fees by colour of the Kynges lettres patentes,² it apperith that it is contrarie to the Customes libertees and vsages of the seid Cite and fees and grete derogacion of the seid Bysshoppe Dene and Chapiter and of the seid Maire Baillifes and Cominaltie and likely moche more hereafter to be if due remedy theryn be not had. Wherefor forasmoche as the said John and Richard confessith and withsaith not the mater comprised in the seid bille of compleynt nor aunswerith to the riot manassyng and evyll entretyng of the said Thomas Davy and Richard Longe namyd in the said bille, the said Maire Baillifes and Cominalte prayen that they may be punysshed accordyng as Right requyrith. And ouer this

¹ This is not strictly true. The first Mayor of Exeter appears in 1206, and no charter survives to explain how the corporate 'Major, Ballivi, et Communitas' came to succeed the *Præpositus* (E. A. Freeman, 'Exeter' [4th ed. 1895], p. 59).

The time of legal memory refers to 1 R. 1 (1189), 'Coke upon Littleton,' 115 a; Blackstone, 'Commentaries,' Introd. § iii.

² 'And they shall have full scrutiny of the mistery within the city and suburbs,' Lett. Pat. November 17, 1466.

the said Maire Baillifes and Cominalte sayen in all thyngs as they haue allegged in their said bille. Without that they made any assaute or manassed the said John Stoddon and Richard Turnour in maner and forme as is supposed in the seid Aunswere. All whiche maters the said Maire Baillifes and Cominalte bene redy to proue as shall to youre good Lordshippes and gret Wysedomys bethought resonable.

TAYLLOUR v. ATT WELL.

A.¹ To the kyng our Souereyn^e lorde and to the lordys of his most noble Councell

1482 Mekely besechith your highnesse John Tayllour² one of the yomen of your most honorable Chamber to reduce vnto your gracyous remembrance that, Wher the sayde John your seruau^t of late compleyned and shewed vnto your goode grace being at your palace of Westminster that he beinge in your Counte of Deuonshir makyng

¹ S.C.P. Hen. 7, No. 18. Wrongly sorted. A case before the King and Council, temp. Ed. 4. This MS. is much faded in parts.

² John Tayllour or Taillour, 'the younger,' merchant of Exeter (Cal. of Pat. Rolls, Ed. 4, 1476-85, p. 262). From a pardon of June 22, 1489 (Campbell, 'Materials,' ii. 454) we know that he was a yeoman of the chamber to Edward 4 and Richard 3. He may perhaps, therefore, be identified with John Taillour, 'the king's servant,' who was appointed on December 3, 1478, forester of Charlewode and bailiff of Upton-on-Severn, Worcestershire, during the minority of Edward, son of George, late duke of Clarence (Pat. Rolls, Ed. 4, p. 129). Clarence had been executed in the previous February, when his son Edward, earl of Warwick was only three years of age. Taillour, again described as 'the king's servant,' made good use of his opportunities at Court. He was probably a valuable supporter of the dynasty, for Exeter was a notoriously Lancastrian town (see E. A. Freeman, 'Exeter' [1895] in the 'Historical Towns' series, p. 91). On March 3, 1481, he was granted the lucrative office of surveyor of the customs and subsidies and of the customers and controllers in the ports of Pole, Exeter, Dertmouth, Plymouth, Fowy, and Briggewater, and ports and places annexed to them, with a salary of 20*l.* yearly, and a moiety of the forfeitures seized by him (Cal. Pat. Rolls, 1476-85, p. 236. Enrolled in Exch. K. R. Mem. Roll, 21 Ed. 4, E. T. m. vi.). In the following year 'as John Taillour, of Exeter,

the younger, merchant,' surveyor of customs, &c., as above set out, he received a general pardon, except in respect of dues from the customs to the Exchequer. He then appears as also holding another office, that of keeper of the seal for the subsidy and ulnage of cloths in the county of Devon (Cal. Pat. Rolls, p. 262, February 10, 1482). On February 19, 1482, he received licence, notwithstanding the Act 20 Hen. 6, c. 5, to trade in tin, lead, and other merchandise (Exch. K. R. Mem. 191, 22 Ed. 4, Inter Brevia, m. xi. dors.). This licence was again enrolled in M. T. 22 Ed. 4, m. xiii. dors. (1482), the term in which this petition was filed, which shows that he had retained the king's favour. See also *ibid.* m. xxxiii. October 26; *ibid.* dors. (November 30); *ibid.* m. xxxv. (November 16). He rendered his accounts as usual in Hil. term, 22 Ed. 4 (1483), *ibid.* Inter Communia M. T. and Inter Brevia E. T. 22 Ed. 4. He served the office of bailiff of Exeter in 1475, but it is perhaps a symptom of the unpopularity of his politics that he was never mayor (R. Izacke, 'Antiquities of Exeter' [1724], p. 89). Within a few months (December 7, 1485) of the accession of Henry 7, his place of surveyor of customs was taken from him and granted to James Boneythou 'for services done to the king, as well in the parts beyond the sea as within this realm,' clearly a political appointment (Campbell, 'Materials,' i. 201). The charge here brought against Tayllour is in respect of a transaction by his deputy during his occupancy of the surveyorship (see *Intro.*, p. lxxiv). From the general

hym self redy towardys the See accordyng to your commaundment ³ was arrestid and put in troble by the Shirf of your sayde Shir ⁴ by virtue of a wrytt to hym directed oute of your Eschequer apon a bylle vnterly made by one John Atwill ⁵ and Philipp Atwill ⁶ surmysyng the sayd bille to be founde before William Huddesfeld your attourney ⁷ and other by virtu of a Commyssyon oute of your sayd Eschequer to

pardon granted to him on June 22, 1489, it is evident that on the death of Richard 3 he lost his place of yeoman of the king's chamber (Campbell, 'Mat.' ii. 454). In this pardon he is styled 'alias John Wals-hall, late of Sele, Devon, tayllour.' He was probably a 'merchant-taylor,' a gild incorporated at Exeter in 1466 (Izacke, p. 63), and the name Taillour a trade name. See further *Intro.*, pp. lxxiii-lxxvii.

³ The date of the arrest was after August 26, 21 Ed. 4 (1481), and before November 28, 22 Ed. 4 (1482). Possibly the plaintiff was repairing to the coast to take part in the expedition against Scotland in June, 1482.

⁴ Giles Daubney, esquire, Sheriff of Devon, 1482 (Izacke, *Append. Catalogue of Sheriffs*).

⁵ John Atwill, celebrated in the history of Exeter as having lived under five and been a magistrate under four kings (E. A. Freeman, 'Hist. Exeter,' p. 90). His earliest appearance in office is in 1472 as one of the four bailiffs and steward of the city (Izacke, p. 88). In 1474 he was senior bailiff and receiver of the city's rents and revenues (ib.), and represented the Corporation in London during its controversy with the Tailors in that and the following year ('Early English Gilds' in *Early English Text Soc.*, vol. 40, p. 308 [1870]). He was mayor in 1476 (ib. p. 89), 1479 (ib. p. 90), 1483 (ib. p. 91), 1492 (ib. p. 96) and 1496 (ib. p. 97). For the political discords attending this last election see Mrs. A. S. Green, 'Town Life in the Fifteenth Century' (1894), ii. 173-181. He was probably a member of a family of gentry settled at Kenton, three miles S.S.W. of Topsham, in which family the Christian name of John was frequent (Harl. Soc. vi. 12; T. Westcote, 'View of Devonshire' [ed. Exeter], 1845, p. 612; J. Prince, 'Worthies of Devon,' p. 15). In a general pardon dated July 4, 1482, he is styled 'marchant' of Exeter (Cal. Pat. Rolls, 1477-85, p. 323). He was the leader of the oligarchical party in the city, and was apparently of Lancastrian politics. See Freeman, pp. 93, 95, 147. But see 7 H. 7, c. 22; also pp. lxxiii-lxxvii, *supra*.

⁶ Philip Atwill, one of the four bailiffs and steward of the city of Exeter in 1485 (Izacke, p. 93). A merchant of Exeter (Cal. Pat. Rolls, 1476-85, p. 207). In the

Exch. K. R. Mem. Roll, M. T. 21 Ed. 4, 'Adhuc fines,' &c., P. A. frequently appears as suing for half forfeitures arising out of the delinquencies of certain customs officers in Exeter and Dartmouth.

⁷ Sir William Huddesfeld, Hoddiseild, Huttesfold, Hudysfeld, Hudisfeld, Huddersfield, &c., born at Honiton (J. Prince, 'Worthies of Devon' [1701], p. 376), admitted a member of Lincoln's Inn 1456 (Linc. Inn Admission Register, p. 13). In that and the following year he was Master of the Revels at the Inn (Black Books of Lincoln's Inn, i. 28), and was a Governor of the Inn in 1461 (ib. p. 36). He was elected Reader of the Inn in Lent Term 1464 (ib. p. 38), and again in 1469 (ib. p. 48) and 1476 (ib. p. 60), and allowed the privilege of two clerks with commons at fourteen pence a week each in 1464 (ib. p. 39). He was nominated on July 6, 1465, one of four commissioners to inquire into the lands and tenements held in Dorset by an attainted Lancastrian, Sir Thomas Fynderne (Pat. Rolls, Ed. 4, 1461-67, p. 489). In 1470 (October 18) he was nominated on a commission of Oyer and Terminer for Devonshire (Pat. Roll, p. 246). He was, after the restoration of Edward 4, again employed on commissions, generally in connexion with Devonshire (ib. pp. 288, 403, 408). He was upon a commission in 1473 (August 18) to inquire into the royal revenues from that county and from Somerset (ib. pp. 406, 407). He was apparently in favour with George, duke of Clarence, being nominated one of his feoffees to uses on his departure from England on May 2, 1475 (ib. p. 530), and he was continuously on the commission of the peace for Devonshire throughout the reign of Edward 4 (ib. p. 612). In return for his services he received on May 22, 1477, a grant of the reversion of the office of attorney-general (Pat. Rolls, 1477-85, p. 37). According to Prince (p. 376) he had already been appointed solicitor-general. The evidence for this is an inscription stated by Prince to have been 'under his arms at his house at Shillingford.' On Clarence's attainer he was nominated a commissioner to inquire into his lands &c. in Devonshire (ib. p. 110). He is first styled 'the king's attorney' in a patent dated November 15, 1478 (ib. p. 137), and as such was 'admitted to repasts' at Lincoln's Inn on

them directed to enquer of concelmentes towechyng your Custumes and Subsidies, as more playnly hit apperyth in the sayde Com-mysssyon,⁸ and by the othes of John Kelly⁹ John Betty¹⁰ Richard Runwell¹¹ William Obley¹² Thomas Hayly¹³ Roger Werth¹⁴ Robert

February 1, 1479 (Black Books of Lincoln's Inn, i. 66). He was Recorder of Exeter 1479-82 (Izacke, p. 50). On April 27, 1483, he was appointed, Edward 5 being nominal king, a commissioner of subsidy for Devonshire (Pat. Rolls, 1477-85, p. 353). He was, however, deprived of the office of Attorney-General by the Protector Richard, Duke of Gloucester, on May 28 following (ib. p. 349). Nevertheless, Richard 3, after his accession, on August 1, in the same year (ib. p. 395), and on May 1, 1484 (ib. p. 447), nominated him again a commissioner of subsidy. That to some extent he was trusted by Richard at this time may be inferred from the fact that on May 1, 1484, he was appointed a commissioner of array for Devonshire (ib. p. 397), and again on December 8, 1484 (ib. p. 490). This was in anticipation of the invasion of Henry, earl of Richmond (Henry 7), which actually took place at the beginning of the following August. But he was evidently among those who transferred their allegiance to Richard's successor, for soon after Henry 7's accession he received a grant of exemption for life, free from any fine or ransom &c., from being compelled to take the office of serjeant at law (March 28, 1486, Campbell, 'Mat.' i. 398), and his epitaph states that he was a member of Henry 7's council (Prince, p. 376). Further, in August 1492, we first find him styled knight (Black Books of Linc. Inn, i. 94). He vacated his chamber in the Inn in 1497 (ib. p. 110), doubtless on account of advancing years. He died March 20, 1499, in which year his will was proved, he being then resident at Dyttysam, Devonshire (J. C. C. Smith, 'Index to Wills,' i. 287), but Westcote (l. c.) describes him as of Shillingford, where he was buried, and where his brass is still to be seen in the church. He also held the manor of Mewshaue, land at Wythrygge, Devon (Inq. p. m. Henry 7, i. 173, 318), as well as at Widecombe-in-the-Moor and Farrindon (Prince, p. 376). According to Westcote, he married first Elizabeth, daughter and heiress of John Bozom, and relict of Sir Baldwin Fulford, Knt., by whom he had issue Katharine, wife to Edmund lord Carew. His second wife, whom he married before October 1479 (see Pat. Rolls, 1476-85, p. 169), was Katharine, daughter of Sir Philip Courtney, of Powderham, Knt., and widow of Thomas

Rogers, serjeant at law, by whom he had issue Elizabeth, married to Sir Anthony Poyntz, of Acton, Gloucestershire. See also R. Polwhele, 'Hist. of Devon' (1797), i. 265 n. His second wife's brass, as well as his own, is in heraldic dress (H. Haines, 'Monumental Brasses' [1861], p. 48). She died in 1514 (J. C. C. Smith, 'Index to Wills,' p. 287).

⁸ Such a Commission was in fact appointed by letters patent under the seal of the Exchequer on November 12, 1481, to W. Huddesfeld, John Speke, esquire, John Hays, gentleman, John Atwyll, merchant, and John Benet, gentleman, to inquire of concealments, &c., since the beginning of the reign, and there was a presentment by a jury before these commissioners that Richard Taillour of Topsham, owner of a carvel (carvele) called 'le Anne,' of Topsham, had in 20 Ed. 4 imported twenty pieces of 'chamles' of the value of 40 marks without paying customs or subsidy. Defendant produced the king's Letters Patent dated February 10, 22 Ed. 4 (1482), pardoning him for all such offences. MS. R. O. Exch. K. R. Memoranda Roll, 22 Ed. 4, E.T. m. xxi. Possibly this case suggested the fraud here complained of.

⁹ John Kelly, steward and one of the bailiffs of Exeter in 1437 (Izacke, p. 77), mayor 1457 (id. p. 84), died 1486. By his will, proved January 16, 1487, he left a tenement to the mayor, bailiffs, and commonalty of Exeter, 'ad subsidium salarii sacerdotis sive capellani divina celebrantis in capella noviter edificata in fronte Gilde Aule' (G. Oliver, 'Hist. of the City of Exeter' [1861], p. 206).

¹⁰ John Betty, senior bailiff and receiver of the rents &c. of the city of Exeter, 1454 (Izacke, p. 82); mayor, 1459 (id. p. 85).

¹¹ Richard Runwell or Rumwell, bailiff and steward of the city of Exeter, 1459 (id. p. 85); senior bailiff and receiver of the rents &c. 1464 (id. p. 86); mayor of Exeter, 1473 (id. p. 88).

¹² William Obley or Obleigh, bailiff of Exeter, 1466 (id. p. 86); senior bailiff and receiver of the city, 1473 (id. p. 88); mayor, 1478 (id. p. 90) and 1494 (id. p. 97).

¹³ Thomas Hayly or Hayle, bailiff and steward of the city of Exeter, 1460 and 1461 (id. p. 85); bailiff and receiver of the city, 1466 (id. p. 86).

¹⁴ Roger Werth or Worth, receiver of the city, 1475 (id. p. 89); senior bailiff and

Symond¹⁵ John Sterre¹⁶ Richard Wagett¹⁷ John Colshill¹⁸ Mathew Alyngton¹⁹ Rychard Hamelyn²⁰ John Symond²¹ and other Burges of your sayde cite of Excester surmysyng the sayde vntrue bille by them to be affermyd that one Robert Bonyfaunt²² as one of the clerkes and deputies of your sayde seruaunt in the Superuysershipp of your Custumes and Subsidies in your portes of Excester and Dertmouth shold sease and arreste the xth day of Auguste the yer of your most noble reyne xxj²³ to your vse at Topsam²⁴ in your sayde Counte of Deuonshir a hundreth peces of crescloth²⁵ and x boltes of canuas callid poldavys²⁶ to the valew of ccxx^{ti} marke²⁷ of lafull money of Englund as hit apperyth more playnly in the sayde bille and also rehersyth in the sayde bille that the xxvjth day of Auguste then next folowyng your sayde seruaunt shuld come to Topsam in forme afor sayde and found the same seatur as ys in forme afor rehersid and ratified the same seatur²⁸ and ther apon shuld kepe and concele hit to his own propur vse in the contempte of your goode grace wher

steward, 1477 (id. ib.); mayor, 1482 (id. p. 91).

¹⁵ Robert Symond or Symons, bailiff and steward of the city, 1465 (id. p. 86); senior bailiff and receiver, 1480 (id. p. 90).

¹⁶ John Sterre or Starr, bailiff and steward of the city, 1474 (id. p. 88), 1477 (id. p. 89), 1484 (id. p. 93).

¹⁷ Richard Wagett or Waggot, bailiff and steward of the city, 1476 (id. p. 89).

¹⁸ John Colshill, bailiff and steward of the city, 1478 (id. p. 90) and 1509 (id. p. 106); mayor, 1493 (id. p. 96). His will was proved in 1495 (J. C. C. Smith, 'Index,' i. 135). See *Tapton v. Colsyll*, p. 51, and also p. 86, n. 46, *infra*.

¹⁹ Mathew Alyngton or Allington, bailiff and receiver of the city, 1485 (id. p. 93).

²⁰ Two members of the family of Hamlyn or Hamelyn were mayors in 1468 and 1499 respectively, but no person of this name with the Christian name of Richard attained civic honours.

²¹ John Symond or Symons, bailiff and steward of the city, 1483 (id. p. 91), bailiff and receiver, 1499 (id. p. 103); mayor, 1523; d. 1523 (id. p. 113).

²² Robert Bonyfaunt, a member of a family which played a considerable part in the politics of the city and were apparently leaders of the popular or anti-oligarchical party. This person had been bailiff and steward in 1473, 1489, 1491, and 1499 (id. pp. 88, 95, 96, 103), but never mayor. In 1498 he had been accused by the oligarchs of having been wrongfully nominated a constable of the Staple at Exeter by

his brother, John Bonyfaunt, who claimed by an irregular election to have been made mayor of the Staple. The Bonyfaunts were defeated, and made submission to an adverse award of the Council. See 'Select Cases in the Court of Requests' (Selden Soc., 1898), pp. lxxiii-lxxvi and 3-7. See also *Hewyt and others v. London, Mayor &c.* of, F, p. 81, n. 12, *infra*.

²³ This shows that this case belongs to the reign of Edward 4, for August 10, 21 Henry 7 was 1506, and Huddisfield had been dead since 1499, and Colshill, one of the jury, since 1495, and John Kelly, another of them, since 1486. See n. 8, *supra*. The date, therefore, is August 10, 1481.

²⁴ Topsam or Topsham, on the Exe, four miles S.E. of Exeter.

²⁵ 'Crestes panni linei vocati crestecloth' (Will of Lyghtfote, 1459, quoted by J. A. H. Murray, 'Engl. Dict.' s. v.). See also p. 90, *infra*.

²⁶ 'Poldavies, the bolte, containing xxx yards' (Customs Duties, 1600, ib. s. v.). 'Poldavies' were sail-cloth. The Act 1 Jac. 1, c. 24 (1604) recites that 'Powle Davies' were imported from France and other parts beyond the sea until the thirty-second year of Elizabeth (1590). See Acts of the Privy Council, i. 342.

²⁷ 146*l.* 13*s.* 4*d.*

²⁸ This is further evidence that the case belongs to the reign of Edward 4, since the plaintiff was ousted from his office on December 7, 1485 (*Campbell, 'Mat.'* i. 201).

the sayde bille was neuer found nor affermed by the sayde jury, but the sayde John Atwill being a commyssyoner by vertu of the sayde Commyssyon the same John and Philipp Atwyll of their grete malice which they owed vnto your sayde seruaunt made and imagyned the sayde bylle of their owne mynde and the sayde John Atwill as a Commyssyoner hit delyuered vnto the sayde William Huddesfeld saying it was foundyn and affermyd by the sayde jury of which mateir your sayde seruaunt had a copy out of the Escheker in wrytyng and shewed hit to the forsayde John Kelly and other his felowes afore rehersed that wer sworne and the forsayde John Kelly and other his felowes redde the sayde bylle and they denyed that euer any such bille shuld be affermyd by them ayenste your sayde seruaunt and ayenste the sayde Robert Bonyfaunt nor no suche bille nor mater was euer shewed or mynstryd vnto them, wher apon your sayde seruaunt desirid a lettre testimonyall of the sayde jury undre theire sealles to testifie the same sayinges and so your sayde seruaunt had a lettre testimonyall vndre the Sealles of the seyde jury testifying that they neuer affermyd any suche bille ayenste your sayde seruaunt and the sayd Robert Bonyfaunt and forasmoche as the sealles of the sayde jury were not to alle men knowen the sealle of the ryght reuerent Fader in god the Bysshopp of Excester²⁹ and the sealle of the mair of your sayde Cite of Excester³⁰ to the sayde testimonyall be sette which testimonyall your sayd seruaunt shewed vnto your good grace wher vpon your goode grace concyding the grete wronges and dyffamacyon done vnto your sayde seruaunt directed your gracyous lettres mysssyve vnto the mair and Baillis of your sayde Cite of Excester with the same testimonyall in the sayde lettres closid commaundyng the sayde mair and Baillis by the same if so wer that the sayde testimonyall wer so sealed in the manere and forme afore rehersed to be then they to take the sayde John Atwyll and Philip Atwille and put them in to your Gaiolle of Excester ther to remayne vnto suche tyme hit pleasid your goode grace to send other wyse in commaundement wher vpon the sayde mair and Baillis³¹ after the sight of your lettres and testimonyall they knowing the same testimonyall to be goode and trew and by them to be sealed as to for is rehersyd and for the more suerte the sayd mair and Baillis

²⁹ Peter Courtney, bishop of Exeter 1478-1487; 3rd son of Sir Philip Courtney of Powderham, and brother of Katharine, 2nd wife of Sir Wm. Huddesfield. See further 'Dict. Nat. Biog.'

³⁰ See n. 14, supra. This gives the date.

³¹ Neither the mayor nor any of the four bailiffs of 1482 was on the jury.

shewed your sayde lettres myssive with the lettre testimonyall vnto your Attourney then being in your sayde shir, and after that so shewed accordyng to your commaundement arrested the sayde John Atwyll and commytted hym vnto your Gaiolle³² at your sayde Cite of Excester, and the sayde Philip hering of your wrytyng dredyng to be punysshed for his vntrew delyng esloigned hym self and avoyded so that he myght nat be takyn and the sayde John Atwill dredyng to be ponysshid for his offence came out of your Gaiolle and prison home to his owne house and ther secretely kept hym self entendyng to have avoyded into other places and he so being oute of your Gaiolle contrare to your commaundement your sayde seruaunt causid the mair and Bayllis to questyon the Gaioller that had hym in kepyng wher he had John your prisoner and he answered them Aye that he was in your Gaioll and desired the mair to send one of his Baillis with hym and he would shew hym the sayde John Atwell in your Gaiolle and when the Gaioller and Baielliff came to your Gaiolle the sayde John Attwyll was gone and so the sayde Gaioller could not shew the same John Atwill your prisoner there and ther apon serche was made for the same John Atwill which was founde and takyn in a mantell disguised and brought to the mair and delyuered to hym as is afore sayd seruaunt [which]³³ he shalbe redy to prove as it shall please your grace to³⁴ Whereupon in the moste humble wyse your sayde seruaunt besechyth your goode grace and the lordes of your most noble Councell to take in your direccion the ponysshemeant of the sayde John Atwyll and Philip Atwill so as other evyll disposed persons may take exsample hereafter nat to offend in case like And that your seruaunt be recompenced of his costages and charges of his wrongfull vexacion and defamacion and be recompenced of his sute in your Eschequer³⁵ And your sayde seruaunt shall pray god for the preseruacion of your [most³³] roiall astate.

Indorsed. John Tayllour ayenst John At well.

Fiat dedimus potestatem³⁶ domino Episcopo Exoniensi & Willelmo

³² Specified in B, p. 13, and D, p. 15, as the Castle, i.e. Rougemont, governed by a sheriff nominated by the king. Freeman, p. 99.

³³ MS. indecipherable.

³⁴ MS. torn.

³⁵ I have searched the Exch. K. R. Memoranda Rolls for 21 and 22 Ed. 4, but failed to find any record of these proceedings.

³⁶ "Dedimus Potestatem." See p. 121, n. 4.

Huddesfelde attornato in quindena Pasche proxime futuri³⁷ apud Westmonasterium xxvij^o Novembris Anno regni regis xxij^{do}.³⁸

LANGPORT.³⁹

In modern hand. Tayllour v. Atwelle.

B. This is thaunswere of John att Well & Philipp att Well to the byll of complaynt of John Tayllour.

The seid John att Well & Philipp sayen that the said byll is not materiall nor mater of substance to aunswere vnto but mater of sclaunder & feyned by the said John Tayllour of his oolde rotyd malice which he hath ayenst the said John att Well & Philipp to trouble & vex theym. And ferthermore the said John att Well & Philipp for their declaracion of trouth sayen that as for any byll supposed to be made or alterit by theym or eyther of theym contrary to that the Jure found & presented for their trew veredite afore William Huddesfeld the kynges attourney & other the Commissioners namyd in the said byll of complaynt of the said John Tayllour the said John att Well & Phylipp sayen that they ben therof in noo wyse guilty in maner & fourme as the said John Tayllour hath supposed by his

³⁷ According to Bond, while the quindene of a feast generally meant fourteen days after a feast, the quindene of Easter was within the eight days preceeding and the eight days following Easter, Easter Day included—i.e. March 23 to April 7, 1483. 'Handy-book of Dates' (4th ed., 1889), p. 162.

³⁸ 1482.

³⁹ This signature conclusively establishes the date as of the reign of Edward 4, for Richard Langport, clerk, Clerk of the Council, died in 1490, in which year his will was proved (J. C. C. Smith, 'Index,' ii. 324). Richard Langport, who received his first ecclesiastical promotion from Henry 6 (Rot. Parl. v. 471b), is mentioned in a patent dated November 27, 1461, as rector of Bradwell, Essex, and prebendary of the collegiate church of St. Mary Otrye (Ottery), Devonshire (Pat. Rolls, 1461-77, p. 80). He received, on July 23, 1461, jointly with Thomas Kent, LL.D. (see J. S. Burn, The Star Chamber [1870], p. 21, and Rot. Parl. v. 216), a grant for life of the office of Clerk of the Council, with the salary of forty marks (26l. 13s. 4d.) yearly from the previous March 4 out of the issues of the manor of

Braddewell, Essex, with a livery of vesture with linings and furs for summer and winter at the Great Wardrobe (Cal. Pat. Rolls, p. 126). On March 24, 1462, he was made a prebendary of York (J. Le Neve, 'Fasti Eccl. Anglic.' [1854], iii. 193), and on June 2 of the same year prebendary of Lincoln, which place he resigned in 1465 (ib. ii. 192). He received a grant for life to himself solely of the office of Clerk of the Council on July 23, 1462. (The printed Calendar, p. 92, dates this grant 1461, sed qu.) On July 16, 1462, under the style of 'the king's servant Richard Langport, clerk,' he received a grant of the manor of Somersbury in the parish of Ewhurst, Surrey, 'so long as it remains in the king's hands without rendering anything for the same' (Cal. Pat. Rolls, 1461-77, p. 179). He resigned or was dispossessed from the Clerkship of the Council on the accession of Henry 7 (Burn, l. s. c.). He became archdeacon of Taunton on May 14, 1487. As his successor there was installed on July 12, 1490 (Le Neve, i. 167), in which year Langport's will was proved, it is evident that he died during the first six months of that year.

said byll of complaynt and the said John att Well & Phylipp sayen that the byll and presentment which is put in to theschequer by the said William Huddesfeld & the said other commyssioners is the same byll & presentment that was taken afore the same William Huddesfeld & other the said Commyssioners which byll & presentment is good & trew & euery parte therof. Without that the same John att well & Phelipp or eyther of theym made or ymagyned the same byll or any worde chaunged in the same after the Jure hadd affermyd & geve their veredit therof, and yet this not withstanding the said John Tayllour caused and procurid the said John att welle to be arrestyd & put in prisone in the kynges Gayle of the Castell of Exceter & ther was kept without any Bayle or mayne prise.¹ All which maters & euerych of them the said John att well & Philipp ben & shalbe redy to prove trew as shalbe thought resonable. And forasmoch as the said byll & presentment ayenst the said John Tayllour is put into theschequer & theruppon processe made for the kyng ther the mater to be determyned the said John att Well & Philipp prayen that the said John Tayllour may be remytted to aunswere ther to the said byll & presentment so that the kyng may be aunswerd of his interesse² for such concellement & seasure as is comprised in the same presentment which drawith aboute the summe of xc. marcs,³ and that the same John att well & Philepp may be dismyssed out of this Cort with their resonable costes & expens by theym susteyned in this behalf.

- c. This is the replicacion of John Tayler vnto the answere of John atwill and Phillipp Atwyll.

The said John Tayler seyeth that the said bill is goode sufficient & the mater therein trewe and not fayned and furthermore for asmoche as the said John Atwyll and Phillipp wythseyeth not but that

¹ 'Every bail is a mainprise (for those that are bail take the person bailed into their hands and custody), but every mainprise is not a bail, because no man is bailed but he that is arrested or in prison; for he that is not in custody or prison cannot be delivered out. . . . But a man may be mainperned which never was in prison, and therefore mainprise is more large than bail. As in an appeal of felony, the defendant wage battell &c. & a day appointed &c. the plaintife shall finde mainprise &c. to

appear &c. And yet he never was in prison or under custody. And sometime these mainpernors are called pledges. . . . And for as much as every bail is a mainprise (as hath been said) bail is oftentimes tearmed in our books by the name of mainprise.'—E. COKE, 4 Inst. p. 180.

² By the grant of March 3, 1481, half the seizures went to the king and half to Tayllour as surveyor of customs. See A, p. 6, n. 2, supra.

³ Six hundred marks are £400.

the seid bill of complaynte before the mayer and the Bayllyfes of the seid Citie of Exceter by virtue of your lettres to them directed was proved to be made and feined by the seid John Atwill & Phillipp and by the seid Jure never affermed as in the bill of the seid John Tayler is supposed, and by the seid John Atwill nor Phillipp nat denyed and the seid John Atwill therefor commytted vnto warde accordyng to your commaundement by the seid lettres which John Atwill soo beyng in warde breke oute of warde¹ and aftir was taken and by the seid mayer and Baylyffes commytted ayen to warde which by the seid John and Phillipp is not denyed nor the esloynyng and avoydyng of the seid Phillipp for fere to be punysshed for the ontrewed dealing of the same Phillipp and the seid John attwill his brothir, the seid John Taylour prayeth that they may be therrof atteyned,² And furthermore prayeth as he dyd in his seid bill of complaynt.

D. This is the reioyner of John Attwyll and Philippe Attwyll to the replicacion of John Tayllour.

The seid John Attwyll and Philippe by protestacion¹ that the seid John Tayllour by his replicacion denyeth not the byll of veredite and presentement affermyd by the seid Jure and laide yn to the escheccour agence hym and Roberte Bonyfaunt by wiliam Huddesfeld and oder commissioners wher by they be bounden to answer the kyng of dc. marc as mor playnely appereth yn the awnsuer of the said John Attwyll and Philippe but; confesseth hit and withsayeth it not and all the mater conteyned yn the same, The said John Attwyll and Philippe saine yn all thyngs as they hafe said yn their said aunswere

¹ 'It appeareth by our ancient authors of the law that if a prisoner, whatsoever the cause was for which he was committed, had broken the king's prison and escaped out, it was felony; because interest reipublicæ ut carceres sint in tuto; but yet it must have been an actuall breaking of the prison; for if the doors had been open and he had gone out, or if others without his privity had broken open the prison doore &c. & he goeth out & escapeth, or if the gaoler himselfe had let him out; in these cases it had been no felony, because the prisoners did not actually breake the prison.'—E. COKE, 2 Inst. 589. But by the statute of 'de irangentibus prisonam' of 1 Ed. 2 (1307), no man could be punished for prison-breaking as for a felony, unless he

was imprisoned for and convicted of felony.

² 'Hereby (Statute of Marlborough, c. 14) appeareth that the writ of attain. which by our old books and auncient records is called breve de convictione, was given by the common law, and the forme of the writ is set downe in our auncient authors at the suite of the party grieved; and it appeareth by the Register that no writ of attain reciteth any statute and the judgement in the writ of attain is fearfull and penall, and given by no statute, and this is proved by this act, which nameth attaints, and is before any act of parliament in print made concerning attaints.'—COKE, ib. p. 130.

¹ See Goryng v. Northumberland, earl of, C, p. 103, n. 1, infra.

and that the said aunswere ys good and trewe tochyng their defence yn maner and forme as ys alleggid yn the same without that the said maire and Bailifes toke ony provis² or examinacion be for them by vertu of the kynges lettres vppon ony bill or testimoniell, or that the seid John Attwyll Brake oute of ward or wis³ takyn a geyne by the said maire and Bayliffe or committed a geyne to ward or any eschape shold or yn ony wyse myght befall yn suche castell⁴ yn maner and forme as the said John Taillour hath declared yn his said replicacion, neyder the said Philippe esloyned hym selfe for ony fere butz⁵ rode onto the kynges god grace and fette a discharge aswell for hym selfe as for the said John Attwyll. All which materres the said John Attwyll and Philippe be redy to prove as this courte shall award, and prayen to be dismissed with their resonable costes by tham Susteyned yn this behalfe, and the said John Tayllour to be remitted yn to the escheccour as ys conteyned yn the said aunswere, ther to be punysshed for the vntrew concelement done a gence the kyng &c and to aunswere the kyng of the said dc. marc

¹ PARKER ² *v.* SUFFOLK, DUKE OF.³

To the right noble sadde and discrete lordes of
the kyng oure soueraigne lordis counsaill.

185-89 This is the grevous complaynt of William Parker knyght ayenst the right high and myghty prince John Duke of Suffolk.

First the seid sir william Parker complaynet ayenst the seid duk for asmoche as he by the most famous and Cristen Prince Edward the fourth late kyng of Englund was laufully possessid and seasid of the maners of Hongham and Buxston with the hundred of Fairehoo

² Proofs, evidence.

³ 'Wis.' An uncommon variant of the Old English form 'wes.' Maetzner, *English Grammar* (1874), translated by C. J. Grece, i. 376.

⁴ See A, p. 11, n. 32, *supra*.

⁵ Query transposed, for buzt. See Maetzner, pp. 156, 157.

¹ S.C.P. Hen. 7, No. 87.

² Sir William Parker of London, knight, warden of the Merchant Taylors' Company at the time of the grant to the company of a charter by Edward 4 on August 28, 1465 (C. M. Clode, 'Memorials of the Merchant Taylors' Company' [1875], p. 194.

Patent Rolls, Ed. 4, 1461-67, p. 463). At some time before 1472 he was enfeoffed by John Stanley, esquire, of lands at Batersey and Wannesworth &c., co. Surrey, to the use of the abbey of Westminster, which feoffment was in that year forfeited to the king as being in violation of the statute of mortmain (Patent Rolls, Ed. 4, 1467-77, p. 308, cp. b. p. 385; also Close Rolls, 13 Ed. 4, m. 5). In 1482 he accompanied Richard, duke of Gloucester, in his expedition against Scotland, and on July 24 of that year was knighted by the duke (W. C. Metcalfe, 'Book of Knights' [1885], p. 7). Probably in this or the following year he made a brilliant

in the Counte of Norfolk and so contynued his laufull possession and peasibly receyued and perceyued the issuez and profites of the same vnto now late that the seid duk by myght and strength contrarie to all right lawe and conscience entred into the same maners and hundred and therof hath put out the seid sir william and hath taken and perceyued the issues and profites of the same this xij moneth and half yere and more which maneres and hundred be of the yerely value of vj^{xx} li. xij s. iij d. which amounteth in all for the seid yere and an half—viiij^{xx} xvij li.

For the which maners of Hongham, and Buxston with other maners londes and tenementes the seid sir William is bounden to the feoffes of the seid landes in m^lm^l marcs⁴ to purchace londes and tenementes to the yerely value of c marcs for the ioynntoure of Alice wif of the seyd sir William daughter to sir William late lorde morley⁵ and Alianore his wif⁵ ourr and beside viij marcs⁶ for thexibucion of a

marriage with Alice Lovel, sister and heir of Henry Lovel, lord Morley, who, on her brother's death in 1489, became suo jure baroness Morley. The marriage may be approximately dated from the recital in the text that he held the manors by grant from Edward 4, who died on 9 April, 1483. As they had long been in the Lovel family, the inference is that they were held by him in right of his wife, who was after the death of her father in 1476 a ward of the Crown. She was twenty-two years of age at the date of her brother's death in 1489 (Inquisitions post Mortem, Hen. 7, i. 212). Through her Parker became a large landowner in the Eastern Counties (see G. A. Carthew, 'Hundred of Launditch,' i. 69. Calendar of Inquisitions post Mortem, Henry 7, i. 213; F. Blomfield, 'Hist. of Norfolk' (1805), ii. 441. Henry Lovel, lord Morley, lady Parker's brother, had married Elizabeth, daughter of John de la Pole, duke of Suffolk, by Elizabeth, daughter of Richard Plantagenet, duke of York and sister of Edward 4 and Richard 3. Suffolk's violent proceedings were therefore probably based upon a claim on the part of his daughter to dower.

Parker was in attendance as a representative knight at the funeral of Edward 4 (J. Gairdner, 'Letters and Papers of Richard 3 and Henry 7,' i. 8). After Richard 3's accession to the throne he was nominated a Privy Councillor and Standard-bearer to the king (G.E.C., Complete Peerage, v. 372). It is probable that he did not fight at Bosworth, for his name is not in the lists either of the combatants or of the attainted. On the other hand, he never

gained Henry 7's favour sufficiently to be summoned to Parliament in right of his wife's estates. He was evidently successful in this suit, since the manors continued in his descendants. He died in 1510 (G.E.C., Complete Peerage, v. 372). His son Henry Parker was summoned to Parliament as lord Morley in 1523, d. 1555. His widow Alice after his death married Sir Edward Howard, K.G., admiral of England (second son of Thomas, earl of Surrey, afterwards duke of Norfolk), killed in battle before Brest, April 25, 1513 (Blomfield, l.c.).

³ John de la Pole, second duke of Suffolk, b. September 27, 1442; only son of William de la Pole, first duke of Suffolk, (d. 1450). He married (before October, 1460) Elizabeth, second daughter of Richard, duke of York. He died in 1491. See 'Dict. Nat. Biog.'

⁴ £1,333 6s. 8d.

⁵ Sir William Lovel, second son of William lord Lovel of Titchmarsh or Tichmarsh, Northants, married Alianore or Eleanor, only daughter and heir of Robert lord Morley (d. 1442); was summoned to Parliament as lord Morley, jure uxoris, in 1469, died July 23, 1476. His wife died August 20, 1475 or 1476 (G. A. Carthew, 'Hundred of Launditch,' i. 68. Nicolas, 'Historic Peerage,' 1857, sub Morley). From this recital the date of the death of Eleanor, lady Morley, is more probably 1476, though Blomfield gives the year of the death of both husband and wife as 1475, at which time, he says, their son and heir was eleven years old. His nonage therefore lasted till 1485.

⁶ £5 6s. 8d.

prest, and to pay all the dettis that the seid Alianore late lady morley ought the tyme of her decesse duely provid and also to content and pay all annuytes graunted by the seid late lord and lady out of the seid maners and confermed by the seid feoffes And ouur xx^{li} which the feoffes of the seid Maners were bounden to pay to the seid Alice duryng the noun age of the now lord morley ⁷ for all other charges for her expenses, which feoffes have charged the seid William parker to the payeme[nt]⁸ [of the]⁸ seid xx^{li} and discharged theym self by reason of a lesse made thereof to hym And also the seid duk hath by his seid mych strength discharged all maner of olde officers the which have contynued there this xxx yere and more to his grete hurt.

Item the seid sir William complayneth hym ayenst the seid duk for asmoche as he had purchased a tenement in Hengham aforesaid callid the hare and for the edificacion of the same hath had a frame of tymber there a makyng the space of iij yeres & more ⁹ which Frame of tymber the seruautes of the seid duk and by his commaundement haue caried and take away the frame of tymber to such places as it hath pleasid hym contrary to all right which frame of tymber and the workmanshipp therof hath cost the seid sir William cc li. and more ouur and beside the beryng of the tymber.

Item the seid sir William complayneth hym ayenst the seid duk for asmoche as he had bilded vpon the seid grounde a tenement and a new berne which cost hym xl li. and more the seid duk by his grete myght entred in to the same tenement and berne the seid berne beyng full of Corne and there toke and thressed alle the Cornes than and there beyng and theym led caried away and sold at his pleasure to the grete losse of the seid sir William and by that vnlefull dealyng the grounde of the seid sir William hath stand vacand and vnoccupied and yet doth for the seid sir William ne noone of the seruautes do come thider to lete and occupie the same for fere and jupardie of their lyves, Wherupon the seid sir William shewed to the kyngis goode grace the disposicion of the seid duk And therupon had a comyssion from hym directid to the tenautes there commaundyng theym to paye their fermes to the seid sir William and to his deputies and to

⁷ This fixes the date of this suit as being prior to 1489, the year of lord Morley's death.

⁸ Manuscript torn.

⁹ 'The rearing of a house, described in mediæval Latin as *levatio*, was the lifting or setting up of the timber work or skeleton structure which supported the whole building. The timber work was prepared and made ready before it was set up' (S. O.

Addy, 'The Evolution of the English House' [1898], p. 108). By the 'Acte against burning of frames' (37 Hen. 8, c. 6), passed in 1545, 'the secret burnyng of frames of tymber prepared and made by the owners therof redy to be sett up and edified for houses' was made felony without benefit of clergy.

noone other which commyssion was opynly rede afore the seid tenants and while the seid Commyssion was in redyng the seruauntes [of]⁸ the seid dukes came vpon hym with billes and bowes and there put hym in suche fere that he was fayne to tak the parsonage and the parson there in noo wise durst kepe hym but conveyed hym on the bak side to the chirche for the saufgarde of his lif and so conveyed by night or elles he had be sleyn.

Please it youre noble wisdomes and sadde discrecions the premisses aboue seid tenderly considered and theruppon by your seid noble discrecions to see and ordeyn that the seid sir William may be restored ayene to the possession of the seid maners and hundred And also truly content and paide of the seid viij^{xx} xvij li. so by the seid duk receyued and that the seid sir William his seruauntes and officers there may peasibly occupie theire seid offices as they of olde tyme haue done without any bodily harme to hym or theym here after to be done.¹⁰

ATTORNEY-GENERAL *v.* PARRE AND OTHERS.

This is thaunsure¹ of William Parre Richard Vndrell John Vndrell Thomas Bedell Herry Savage John Nores James Savill Robert Woman Robert Chapell Nicholas Walter John Chamlet & Thomas Shoo to the informacion² put agenst theym by Mr. Hobert the kinges attourne.³

The seid William Parre Richard Vndrell John Vndrell Thomas Bedell Herry Savage John Nores James Savell Robert Woman Robert Chapell Nicholas Walter John Chamlet and Thomas Shoo Seyn that thohthe⁴ it is that they were inpanelled vpon thacquittell of the seid John Wod and William Frank for the mater in the seid informacion specified be fore the kinges juges and at the tyme and place in the

¹⁰ There are no other papers in this case.

¹ S.C.P. Hen. 7, No. 52. This is the only document of the case.

² Perhaps in accordance with the terms of the Star Chamber Act (3 Hen. 7, c. 1) which gave jurisdiction 'uppon bill or information put to the seid Chancellor for the kyng or any other, ageyn any persone for eny mysbehavyng afore rehersed,' included in which is 'takng of money by juryes.' Presumably this case would come within the recited mischief of 'other ontrewre retournes' or the 'takng of money by juryes.' Or it may be a proceeding under 11 Hen. 7, c. 25 (1495). Reeves remarks that prosecutions

by way of information had become common during the reigns of Henry 6 and Edward 4, 'Hist. Engl. Law,' iii. 158.

³ Sir James Hoberd, Hobart or Hubbard, of Lincoln's Inn. Attorney General, November 1, 1486; knighted February 18, 1503; died 1507 ('Dict. Nat. Biog.'). The style 'Mr.' affords no trustworthy indication of the date of the case. Cf. Goryng v. Northumberland, earl of, c, p. 103: 'Mr. Bray, knyght for the kinges moste honorabill body.' Also 'Mr. Cheyney' and 'Sir John Cheyney' alternatively on p. 49.

⁴ By mistake for 'trohthe,' i.e. troth.

seid informacion specified how be it they had soche Euydences Geuyn theym at that tyme for the proffe that the seid John and William wer not Geltie of that Eschape wherof be fore that tyme they were indited That in their Conciensis they thought playnly they Cowl no noder wise doo with owt they shold haue bene forsworne but to doo as they did in the acquitell of the seid John and William of the seid Eschape for they sey one *⁵ the wiff of John Edmundes the vnder keper of the kinges benche Testified to the seid William Parre Richard Vndrell John Vndrell Thomas Bedell Herry Savage John Nores James Savell Robert Woman Robert Chapell Nicholas Walter John Chamlet and Thomas Shoo the seid John and William after the seid John Day was arested for the folony⁶ in the said informacion specified delyuered the seid John Day to the keypyng of the kinges benche and ther as a prisoner was resceyued and ther he Contined by the space of iij day vn to the tym he Eschaped thens after that the seid John Wode and William Frank ware lawfully dischargid of hym, with owt that the seid William Parre Richard Vndrell John Vndrell Thomas Bedell Herry Savage John Nores James Savell Robert Woman Robert Chapell Nicholas Walter John Chamlet and Thomas Shoo acquitted the seid John and William of the seid felony by ony Corrupt meane or that the seid William Parre Richard Vndrell John Vndrell Thomas Bedell Herry Savage John Nores James Savell Robert Woman Robert Chapell Nicholas Walter John Chamlet and Thomas Shoo Euer hadd ony suche Euydens or informacion Geuyn theym which shold haue discharged their Conciens to atteynted⁷ the seid John and William of the seid Eschape and with owt that the seid William Parre Richard Vndrell John Vndrell Thomas Bedell Herry Savage John Nores James Savell Robert Woman Robert Chapell Nicholas Walter John Chamlet and Thomas Shoo wer periured⁸ in Gevyng the seid verdict, to their knowlege, all which maters the seid William Parre Richard Vndrell John Vndrell Thomas Bedell Herry Savage John Nores James Savell Robert Woman Robert Chapell Nicholas Walter John Chamlet and Thomas Shoo at all tymes ar redy to proue as this Courte will award theym & prayeth to be dismissid owt of that same with ther resonable Costes & damages for ther wronge vexacion and trobill in that behalfe.

⁵ Blank in MS.

⁶ Sic, for felony.

⁷ Sic, 'have' omitted.

⁸ On the claim of the Star Chamber to try cases of perjury. See Introd., pp. cxxxiii-cxxxv.

BATHE, PRIOR OF *v.* ST. AUGUSTYN'S, CAUNTERBURY, ABBOT OF.¹

A.

To the king oure souereign lord

1489 Shewith vnto youre Highnes and the lordes of youre moost honourable counsell youre contynuall Oratour Thabbot of the monastery of Seynt Austyn in the Countie of Kent² that where of late a grevous scelaunderouse vntrue fayned and surmysed bill of compleynt hath bene and yit is pursuyd ayenst youre saide Oratour before the lordes of youre moost honourable counsell by³ one John Cauntlowe prior of the Cathedrall Church of Bathe³ to the greате grevouse and Importunable charge costes and lossis of youre saide Oratour And for the insufficiente⁴ and vncerteynte of the whiche bill youre saide Oratour ought not to be put to Aunswere Neuertheles youre saide Oratour saith that by a Statut made in the tyme of king Edward the thurde the xlij yere of his Reigne⁵ It was Actid and ordeynyd by the same Statut that no maner of person shulde be put to Aunswere without it were apou a due presentment afore his Justices or ellys by mater of Record Or ellys by a Originall writ⁶ Accordyng to the Auncien lawe of the land As more playnly apperith by the same estatut And forasmuch as the saide bill of compleynt of the saide prior of Bathe implyeth no presentment takyn afore noone of the kinges justices nor is mater of Record ner due⁷ Originall writ youre saide Oratour askyth

¹ S.C.P. Hen. 8, Bundle 24, No. 396. Wrongly sorted.

² St. Augustine's Benedictine Monastery said to have been founded by king Ethelbert and St. Augustine in 605. John Dunster appears in Dugdale as successor to William Sellyng, who died in 1480. The next name in Dugdale's list, which gives no dates for Dunster, is John Dygon, 1497-1509 ('Monast.' i. 123). Dunster was probably the name of the place of the Abbot's birth in N.W. Somerset, and not his family name, which was presumably Slugge or Slouge (see C, p. 28, and D, p. 32, *infra*). At Dunster was a cell to Bath priory. J. Collinson, 'Hist. of Somerset,' ii. 16.

³ Prior 1489-1499. He rebuilt the chapel of St. Mary Magdalen at Holloway, near Bristol, together with a small hospital for lunatics adjoining (J. Collinson, 'Hist. of Somerset,' i. 172). Bath was also a Benedictine house (Dugd. ii. 256). Its revenues at the Dissolution were 695*l.* 6*s.* 1*½d.* J. Speed, 'Hist. of Great Britain' (1650), p. 821.

⁴ *Sic.* The same form appears on p. 5.

⁵ This statute, the 42 Ed. 3, c. 3, is expressed to be based upon a petition of the Commons against the practice of citing persons by false accusation before the Council. The operative part is here but slightly abridged. The Commons petitioned in 1421 for the observance of this statute (Rot. Parl. iv. 156). See further *Introd.*, p. lxxix, *supra*.

⁶ 'Writs are diversely divided in divers respects, some in respect of their order or manner of granting are termed Original, and some Judicial. Original writs are these that are sent out for the summoning of the defendant in a personal or the tenant in a real action, before the suit begins, or rather to begin the suit. Those are Judicial which are sent out by order of the court where the suit depends, upon occasion after the suit begun.' Old Nat. Brev. fol. 51 and 147. J. Cowel, 'Interp.' s.v. Writ.

⁷ There is an omission. The text of the statute *Anglicè* runs 'or by due process and writ original.'

iugement if he ought to be put to Aunswere contrarie to the fourme of the saide estatut And ouer this saith that in youre last parliament holden at Westminster It was agreed concludyd and Affermyd by youre grace And the lordes of youre moost honourable counsell in the same present parliament Assemblyd That fromthensforth no maner a^s persone nor persons shulde not be grevid nor vexid upon any privy Seale to be suyd by reason of any compleynt theruppon made without so were the mater therin conteyned concernyd a great cause of Ryot forcible entre vnlauffull & riotouse Assemblies Or ellys great and grevouse pouertee concernyng eyther of the parties that soo suyth or complayneth⁹ Wherfor your seid Oratour praieth that forasmuche as the saide bill of compleyns comprehendyth no Ryot nor vnlauffull Assemble And youre said Oratour & the saide prior be persons ablee & sufficient to suye for theire remedy by the lawes of youre Land for all Iniuries & wrong to theym commytted & doone that youre saide Oratour may be dismyssid oute of this Court with his resonable costes and damages for his wrongfull vexacion susteyned in this behalf.

Indorsed. Responsio abbatis sancti Augustini Cantuariensis &c. ad billam Prioris Bathoniensis.

B. The declaration (of the)¹ matere in variaunce betweyne the abbot of the monastere of seynt Augustyn of Caunterbury And the prior² of Bath.

The *³ *³ sayith 'that his bille is gode true sufficient & certain to put the seid Abbot *³ *³ *³ Wheras the seid Abbot allegeth that the same prior owght (to³) sue in the

⁸ A worn-down form from 'of.' Cf. Lord Berners's Froissart (1523), i. xxxviii. 52: 'well furnysshed of men a warr.' J. A. H. Murray, 'Eng. Dict.' s.v. A.

⁹ The demurrer as to riots &c. can only refer to the Act 'Pro Camera Stellata' (3 Hen. 7, c. 1 [1487]). But its sub-title 'An Acte geving the court of Starchamber authority to punnyshe dyvers my(s)demeanours' indicates that the negative form of this recital is an extremely elastic paraphrase. The petition would appear to have been drawn by a draughtsman without the Act before him, and the recital seems a hazy mixture of the Act and of the ordinance of Council of 1426, 'that all the Billes that comprehend matiers terminable at the common lawe be remitted there to be determined. But if so be that the discretion of the Counsaile

feele to grete myght on that oo syde, and unmyght on that other, or ellus other cause resonable that shalle moeve hem,' the xvth ordinance provides 'that the clerc of the Counsaile be sworne that every day that the Counsaile sitteth on eny Billes betwix partie and partie, that he shall, as ferre as he can, asprie which is the porest Suteurs Bille, and that furst to be radd and answered' (H. Nicolas, 'Proceedings &c. of Privy Council' (1834), iii. 214, 217. Cf. 31 Hen. 6, c. 2). The Star Chamber Act contains no such clause regarding 'great and grevouse pouertee' as is recited here. See further Introd., p. lxxxii, *supra*.

¹ Parchment illegible, being much injured by damp and decay.

² Reading doubtful.

³ Illegible.

* 3 * 3 of the mater and charges ² comprysyd in his seid bill the
 same Prior is * 3 * 3 * 3 said ² priorie beth ⁴ in grete
 pouertye for * 3 * 3 * 3 * 3 manye ² causes Whe * 3
 * 3 * 3 soden ² ruyn of the most ² of the church of the seid Priorye ⁵
 the charges and costes of repare ² * 3 * 3 * 3 * 3 seid
 * 3 * 3 * 3 * 3 place And othere greate vrgent & in-
 evitable cause of the same pouertye is the grete vnreasonable &
 gruggfull ⁶ * 3 * 3 wilfull damage done ² by * 3 * 3 of
 * 3 * 3 hereditamentes juelles goodes & catalles of the same
 pryorye done & commytted vnfatherly to the same place by the seid
 * 3 * 3 * 3 the grete offence in conscience * 3 * 3 therof
 as appereth by the articles & matere ensuyng redy tobe proved
 emonges dyuers othere grete inconveient A * 3 * 3 * 3 to
 the hurt & ympouerysshynge of * 3 * 3 Fyrst the same Abbot
 beyng then Prior of the seid Priorye causyd a yerely rent of ix marcs ⁷
 parcell of the heritaunce of the seid Pryorye due therto by the
 maire & com(monalty) ³ of the towne of Plymmouth ⁸ tobe releasyd
 & dischargyd forever to the grete hurt & disheritaunce of the same
 howse & the same abbot resceyued therfore c & viij li. ⁹ Whiche
 (he ¹) (t) ¹⁰oke with hym & conuertyd to his proper vse & to the vse
 of the seid abbathie Wherof he is nowe abbot Also the seid abbot
 then beyng Pryor of the said Pryorye caused the (sa) ¹⁰me Pryorye
 & thenheritmentes therof tobe chargyd perpetuely with one yerely

⁴ Obsolete form. A.S. beþ. See J. A. H. Murray, 'Eng. Dict.' s.v. Be, p. 716.

⁵ In his account of William Bird, Cauntlow's successor, Collinson says: 'The old conventual church being in his time (1499-1525) become ruinous, the bishop, at the instance and with the assistance of the prior, set about rebuilding it in a more sumptuous manner' ('Hist. of Somerset' [1791], i. 56). The bishop was Oliver King (1495-1504), of whom Collinson says that he 'began the reparation of the ruined church of Bath' (ib. iii. 386). From this pleading it would appear that the ruin was due to mischance and not to neglect. But there is in existence a letter of bishop King, dated October 9, 1500, which tells a very different tale, and describes the church as 'per incuriam multorum priorum non reparatam aut refectam, imo funditus dirutam ipsisque in voluptatibus evanuisse.' This, notwithstanding that the revenues of the house amounted to 480*l.* 16*s.* 6½*d.*, and that the monks only numbered sixteen. The letter is printed in J. Britton, 'Hist. of Bath Abbey Church' (1825), App. iv. p. 140.

⁶ Rancorous.

⁷ 6*l.*

⁸ In 1440 the rights of the priory of

St. German's were commuted for a fee farm rent of 41*l.* payable by the corporation of Plymouth, and those of the priory of Bath for a fee farm rent of ten marks (6*l.* 13*s.* 4*d.*). In consequence of the 'pouertee and dekaye' of the town the first of these rents was reduced in 1464 to 29*l.* 6*s.* 8*d.* It may be inferred that the rent paid to the priory of Bath was at the same time reduced to nine marks. See R. N. Worth, 'History of Plymouth' (1890), p. 190.

⁹ Eighteen years' purchase. Considering that the suppression of religious houses had taken place for the foundations of Wykeham and Waynflete, and on a larger scale in the case of the alien priories under Henry 5, this was a very fair bargain. Land was customarily sold in the middle of the fifteenth century and down to a hundred years later at twenty years' purchase of the rental. J. E. T. Rogers, 'Hist. Ag.' iv. 738; W. Denton, 'England in the Fifteenth Century' (1888), p. 233. Cf. S. P. Dom. Hen. 8, xiii. 1, 1453, and ibid. ii. 671 (1538); also Acts of the Privy Council, ii. 382 (1550); iv. 194 (1552). See also p. 176, infra. ¹⁰ Parchment torn.

rent of xl s. grauntyd in his tyme to one Johane at Welle & to her heires & assignes & ressayvid (the)rfore¹⁰ of her c li.¹¹ which he toke to his propre vse & to the vse of his abbathie & also causyd the same pryory to be chargyd perpetuelly with an other annuell rent of (vj li.)¹² to Thomas more of Cheldre¹³ in fee symple¹⁴ & resceyved therefore (ccc)¹⁵ marcs¹⁶ which he toke & conuertyd to his propre vse & to the vse of his seid abbathye. Also he causyd the same priorye to be charged in his tyme perpetuelly with an other annuell rent of x li. grauntyd to John Twyneo in fee symple & reseved therefore of hym cccc marcs¹⁷ (which)² he in lyke wyse applied to his propre vse & to the vse of his seid abbathye. Moreouer the seid abbot beyng pryor of the seid priorie resceyved of diuers other persons for^{* 10} of yerely rentes Corodyes¹⁸ pensyons & Fees & morgages of londres to theym made in his tyme for terme of their lyves & for discharges & releesses of the rightes & possessions & sale of ymplementes of the same priorie & for manumysions & Fynes in his tyme made & grauntyd as appereth by a scedule thervnto annexyd amountynge to the some of vj^c lxvij^{li} xij^s & iiij^d to the extreme ympouerysshynge of the same Priorye. And fethermore the seid abbot beyng Pryor of the seid Priorye gretly mynysshed the Store of the mansion & possession of the same Pryorye to the grete disperses¹⁹ damage & ympouerysshynge therof. And also in his tyme & at the tyme of his departynge the same Priorye was indettyd in

¹¹ Fifty years' purchase, an extraordinarily good bargain, the usual rate of interest for money lent on good security being ten to twelve per cent. (Denton, p. 260. See the references there given in n. 2). By 37 Hen. 8, c. 9, § 4 (1545), 'An Acte against Usurye,' ten per cent. per annum was the limit of interest allowed to mortgagees.

¹² Illegible. Restored from the prior's account, C (p. 26, *infra*).

¹³ Thomas More of Cheddar, Somerset. Will proved 1493. J. C. C. Smith, 'Index,' ii. 375.

¹⁴ I.e. heritable. Conformably with this terminology an Assize of Novel Disseisin lay for a corody in arrear. Stat. Westminster the second, c. 25 (1285). See *Introd.*, p. lxxxv.

¹⁵ Parchment torn; restored from the prior's account, C (p. 26, *infra*).

¹⁶ 200*l.*, i.e. thirty-three and one-third years' purchase. The abbey held no land at Cheddar, and the annuity was presumably charged on the whole of its lands, whence, perhaps, the high price paid.

¹⁷ 266*l.* 13*s.* 4*d.*, or more than twenty-six years' purchase. These three trans-

actions presumably proved highly profitable to the abbot. Cf. n. 13, *supra*, and p. 26, nn. 5, 6, *infra*.

¹⁸ Here 'corody' is apparently used of a bargain by the monastery with a private person. Cowel (*Interp. s. v.*) associates it with a grant to the king in favour of his nominee. The example in the text is the more common use. H. Spelman defines it as 'alimenti modus qui in aliquo monasterio alicui conceditur, vel ad terminum vitæ, vel pro certo tempore, vel hereditarie.' *Glossarium Archæiologicum* (1687) s.v. *Corrodium al. Corredium*. See *Introd.*, p. lxxxv. An example of a corody is printed in F. A. Gasquet, 'Henry 8 and the English Monasteries' (2nd ed. 1889), ii. 531, App. ii., from which it appears that it was daily receivable in kind in a house within the monastic precincts, occupation of which constituted part of the benefit received. Cf. Cowel (*Interp. s. v.*). A pension did not connote residence. *Ibid.* See further as to Corody, p. 148, nn. 47, 51.

¹⁹ I.e. dispersals, a form not noticed in J. A. H. Murray's 'Eng. Dict.'

viiij^{xx} & xj li. & the same abbot toke & conueyed²⁰ with hym the juels plate siluer vessels goodes & catalles specified in the bille of the seid Prior with dyuers other goodes & ymplementes of the goodes of the same Priorye which beth⁴ not conuenient tobe expressyd in this high court levyng in the same place no some of money ne other stuff necessarye to the sustenaunce & mayntenaunce therof as in mete & drynke to fynd theym by the space of a fourtnyght²¹ but of his gredy couetous²² havynge special mynde to depart therefro toke all that he myght of the same place to the vttur ympouerysshyng thereof And moreouer the seid abbot the day of his departynge from the seid Priorye havynge in his possession the juels plate siluer vessell & goodes of the same Pryorie specified in the same bille the couent²³ of the same Priorye beyng bifore hym made to hym request to haue delyuery to theym of the same juels plate siluer vessell & goodes the same abbot then & their esspecially desyred & requyred the same couent by verrey subtile & crafty meanes that he myght haue the occupacion of the same juels plate siluer vessell & goodes for a certen season to be in his rewle & tobe brought with hym to the seid abbey of seynt Augustyns & therby he shuld haue the grettere love of the couent of the same place of seynt Augustynes & it were grete reproch to the same Priorye he to departe so pore from thens not havynge eny substaunce with hym & therevppon he leyng his hand vppon his brest made there a solempne oth & promyse vppon his presthode to the same Couent to restore ayeyn to theym the seid juels plate siluer vessell & goodes in as goode & better value & condicion then he resceyued theym. Moreouer the seid Prior seith that the seid abbot hath by his writynge made with his owne hand grauntyd to restore ayen the seid siluer vessell Chalesse pax²⁴ & half cruettes²⁵ of siluer in more & bettere value then he hadde theym Neuerthelesse the same abbot to thentent to coloure therby more couertly his seid grete wronges hath made a bille to the kynge oure soueraign lord

²⁰ With the implication of theft. Cf. Cranmer, 'Catech.' 99 b, 'I may convey from hym an Oxe, Asse or an Horse,' and Shaks. 'Merry Wives,' i. 3. 31: 'Convey, the wise it call,' J. A. H. Murray, 'Eng. Dict.,' s.v.

²¹ Evidently a minimum.

²² A form of covetise, covetousness. J. A. H. Murray, 'Eng. Dict.' s.v. Covetise. Cf. Butland and others v. Austen and others, p. 263, *infra*.

²³ See p. 138, n. 5.

²⁴ 'A small plate of gold, or silver, or copper gilt, enamelled, or piece of carved ivory, or wood overlaid with metal, carried

round, having been kissed by the priest, after the "Agnus Dei" in the Mass, to communicate the Kiss of Peace.' A. Welby Pugin, 'Glossary of Ecclesiastical Ornament, &c.' (1846), p. 192, where is an engraving of a pax. It is called in C 'le paxbred,' i.e. 'brede or lytylle borde,' it being anciently of wood. Prompt. Parv. (Camd. Soc. 1843).

²⁵ At Durham Abbey 'there was pertaining to the altar two great crewetts of silver, containing a quart apiece, parcel gilt and engraven all over; and two lesser cruets for every day, all of silver.' 'Antiquities of Durham Abbey,' p. 12. Pugin, p.

& rehersynge therin in a generaltie the compleynt of the seid Prior praynge for so moch as there is no matere by presentement ne mater of record due origynall by the cours of the lawe riot riotous assemble ne forcibly entree comprysed in the bille of the seid Prior that therefore the same abbot myght be dysmyssyd out of this Court accordynge to the ordynaunces of certen statutes in that behalf ordeynyd²⁶ the which bille of the same abbot is made in fourme of peticon & not by any fourme of ansvar to the bille of the seid Prior only of subtiltie & craft by cause the same abbot wold not be sworne vppon any answer by hym tobe made directly to the bille of the same Prior²⁷ ne yef any answer direct therunto, which is a right ieopardous president tobe begon of newe And by the causes & consideracons alleggyd herin it may be by the consideracion of this high Court pleyonly acceptyd & adiugyd grete pouertie tobe in the seid howse of Bath All which maters the seid Prior is redy to prove as this Court wille awarde And for asmoche as the seid abbot in his bille & answer hath not denyed the hauynge of the seid juels plate siluer vessell & goodes specified in the seid bille of the seid Prior & other iniuries conteynyd in the same bille therefore the same Prior praeth that by iugement of this high Court the same abbot may be adiugged othere to yeld to the same Prior the juelles plate siluer vessell & godes specified in his seid bille & to make such ferthere restitucion & recompense to the same Prior & his howse of Bath of the premysses as accordeth with right & goode conscience orelles to make ferthere pleyn & direct answer aswelle to the matere comprysed in the seid bille of the seid Prior as to the mater specified in this replicacon & therevppon to be examyned by his othe as he shuld haue be vppon a pleyn answare²⁷ made to the matere of the bille of the same Prior.

Indorsed. Prior Bathoniensis contra abbatem sancti Augustini Cantuariensis.

c.

UNIERSIS sancte matris ecclesie filiis ad quos presentes litere peruenerint.

JOHANNES Cantelowe Prior prioratus ecclesie C(athedralis) (Bathoniensis)¹ et eiusdem loci Capitulum in omni salutari Salutem

88. Cruets appear to have been anciently of the larger size.

²⁶ See A, p. 21, n. 9, *supra*, and *Introd.*, pp. lxxix-lxxxii.

²⁷ 'The Star Chamber proceeded by bill and answer, and administered interrogatories to the accused party, whom they ex-

amined upon oath.' Sir J. F. Stephen, 'Hist. of the Criminal Law' (1883), i. 176. Cf. Pynson & others v. Squyer & others, p. 117, *infra*. See also *Introd.*, pp. lvi, lxxi, *supra*.

¹ Paper torn. The restorations are from documents B and D.

perpetuam. Ad Vniuersitatis Vestre noticiam deducimus per presentes quod qu(idam) ¹ pater dompnus Johannes dunster Abbas monesterii ² Sancti Augustini iuxta Cantuauiam ³ nuper prior prioratus h(ui)us ¹ ecclesie Bathoniensis in Tempore Prioratus sui dampnum intulit commorauit ³ subtraxit dilapidauit ac deuas(t)auit ¹ Redditus prouentus Alia que bona dicti prioratus alienauit necnon quamplurima in peius transtulit ⁴ ymmo dictum prioratum in debitis pensionibus Corro(diis) ¹ seruiciorum concessionibus que officiorum onerauit et aliis prout sequitur.

IN PRIMIS fecit relaxari Redditum nouem marcarum de Comunitate Ville de plimmoth in comitatu deuon priori & Conuentui dicte ecc(lesie) ¹ Cathedralis Bathoniensis Annuatim persoluendum pro qua relaxacione Idem venerabilis pater dompnus Johannes dunster nuper prior Ante dictus recepit c (viiij li.).

ITEM fecit onerari dictum prioratum concedendo Johanne At Well de Glaston ⁵ in Comitatu Somerset vidue heredibus executori & As(sig)nati(s) ¹ imperpetuum Annuam pensionem quadraginta Solidorum et recepit pro eadem pensione c li. quas secum asportauit.

ITEM fecit onerari dictum prioratum concedendo ² Thome More de cheddre in Comitatu Somerset heredibus executori & Assignatis su(is) ¹ imperpetuum Annuam pensionem Sex librarum Et accepit pro eadem pensione ccc marcas quas secum asportauit.

ITEM onerari fecit dictum prioratum concedendo Johanni Thweneho de Cicestria ⁶ in Comitatu Gloucester heredibus executori et Assignatis suis imperpetuum pensionem Annuam decem librarum. Et accepit pro eadem ² pensione cccc marcas quas secum asportauit.

Summa pensionum concessarum quibus oneratur dictus Prioratus deterioratur que imperpetuum } xix li.⁷

Summa pecuniarum pro predictis pensionibus receptarum & per dictum venerabilem Patrem dompnum Johannem dunster subtractatarum seu ereptarum viij^o l marce.⁸

ITEM dictus venerabilis pater dompnus Johannes dunster a dicto prioratu secum Asportauit ij magnas pelues Argenti & interiore parte dea(uratas).¹

² Sic.

³ Detained, an ante- and post-classical use.

⁴ In peius transtulit, deteriorated.

⁵ The will of Joan Atwell of Glastonbury was proved in 1485, J. C. C. Smith, 'Index,' i. 24.

⁶ The will of John Twynyho of Cirencester, Gloucester, was proved in 1485, id.

ii. 537.

⁷ The total of the annual charges set out is 18*l*.

⁸ The total comes to 1,012 marks = 674*l*. 13*s*. 4*d*.; but if the sum received for commutation of the fee farm rent of Plymouth be deducted the total is as stated, viz. 850 marks or 566*l*. 13*s*. 4*d*.

ITEM dictus venerabilis pater secum asportauit j le garnysh de syluer vessell Completum videlicet xij le platters xij l * * ⁹ et xij le saueris vnacum ij le Chargers et vt dicitur j aliud le Charger Argenti pretium le j le platter iij li. pretium j l * ¹.

Summa lxxxiiij li.

ITEM dictus venerabilis pater secum asportauit ij phiolas ² argenti in parte deaurati & j le paxbred Argenti & intoto deauratum.

ITEM secum asportauit j Calicem Argenti in parte deaurati & j ollam Argenti in tota deaurati pondus dicte olle xij vncie.

ITEM Alienauit Vnum par vestimentorum quondam ex dono recolende memorie domini Thome Bekynden nuper Bathoniensis & Wellensis Episcopi ¹⁰ valoris iij^{or} marcarum cum j Salerio Argenti ¹¹ et cum cratera argenti ¹¹ Refectorio ibidem pertinente.

ITEM alienauit j implementum Antiquum de pandoxatorio ¹² videlicet vnum le furneys euen ² lx li. vj s. viij d.

Recepta per dictum venerabilem patrem dompnum Johan-
nem dunster nuper priorem Antedictum in tempore con-
struccionis Refectorii.

ITEM In primis Recepit dictus venerabilis pater de domina Estmounde vidua pro quadam pensione decem marcarum pro quibus dictus prioratus huc usque oneratur . . . vij^{xx} (li.).¹³

ITEM Recepit de Johanne chaneys ¹⁴ de Wyllemyndon ¹⁵ in

⁹ Apparently le . . ., but the upper part of the letter following l is torn off, and the word may perhaps have been 'lances,' dishes.

¹⁰ Thomas Bekynden, Bekynton or Beckington, bishop of Bath and Wells, 1443-1465, 'Dict. Nat. Biog.'

¹¹⁻¹¹ Interlined.

¹² In 'Catholicon Anglicum,' compiled in 1483, 'brewhouse, pandoxatorium,' E. E. T. S. 1881.

¹³ Paper torn, but restored from the fragment following, marked v. The bargain is 6*l.* 13*s.* 4*d.* a year rent charge for 140*l.*, or 10 marks for 210 marks, i.e. twenty-one years' purchase.

¹⁴ Champneys in fragment, v, p. 32, infra. But this reading is probably correct, as the family of Champneys appears to have come into Somerset at a later date (J. Collinson, ii. 223, &c.). The family of Chaney, Cheney or De Canieto were land-owners temp. Ed. 1 (id. i. xxviii). This John Cheney was possibly Sir John Cheyney of Sheppey, Kent, who married Alianor, daughter and heir of Sir Robert Shottesbroke. He died 1467 ('Collect. Topogr. &c.'

[1834], i. 313. E. Hasted, 'Hist. of Kent' [1782], ii. 661). Their eldest son was John Cheyney, knighted by the Earl of Richmond on his landing at Milford Haven in 1485, elected Knight of the Garter before April 22, 1486, and summoned to Parliament as a baron in 1487; died 1495 ('Dict. Nat. Biog.' Supplement, i. 421). The second son was William Cheyney, mentioned below, who married the daughter of Sir Geoffrey Boleyn, lord mayor of London in 1457, great-grandfather of Queen Anne Boleyn ('Collect. Topogr.' i. 314). He was sheriff of Kent in 1477 and 1485 (Hasted, l.c.) and received several grants from Hen. 7 (W. Campbell, 'Mat.' i. 157, 175, &c.). A branch of the family was settled at Spaxton or Pakton, Somerset ('Collect. Topogr.' i. 313. Inq. p. m. Henry 7, i. 248, 371, &c.). See also Culford v. Wotton, C, p. 48, n. 8. There was, however, another contemporary John Cheney with a son William. This was Sir John Cheney of Fen Ditton, Cambs, and of Thenford, Northants; died July 14, 1489, whose only son was afterwards Sir William Cheney. G. Baker, 'Hist. of Northants' (1822-30), i. 714.

Comitatu Somerset Centum marcas pro quibus manerium de chelworth¹⁶ im(pigneratur)¹ et ponitur in morgagium eidem Johanni vsque ad plenam solucionem earundem vltra quam solucionem plenariam dictus prioratus oneratur (eidem)¹ Johanni ac Willelmo filio suo in pensione Annua viginti sex solidorum & octo denariorum durante vita eorum vtriusque.

ITEM Recepit de Johanne Chauunceler de Keynisham¹⁷ in Comitatu Somercet Centum marcas pro solucione quarum dictus prioratus oner(atur) et propter hoc concessit filio dicti Johannis Chauunceler pensionem Annua quatuor marcarum vsque ad tempus quo promoueret (eum)¹ ad beneficium viginti marcarum.

ITEM Recepit de Ricardo Canynges de hampton iuxta bathoniam¹⁸ pro Corodio sibi & vxore² sue & filio suo ad terminum vite eorundem (et)¹ eorum alterius diucius viuentis xl marcas.

ITEM Recepit de Johanne Broke de lye abbatis¹⁹ iuxta bristoll pro Corodio sibi & vxore² sue ad terminum vite . . . lvij m(marcas).¹³

ITEM Recepit de Johanne Baboure de Tweuerton²⁰ iuxta Bathoniam pro Corodio sibi et vxore² sue ad terminum vite

xlviij (marcas).¹³

ITEM Recepit de Alicia Slougge matre sua & Agnete Exsten matertera sua pro Corodio eis ad terminum vite concessio xl (li.).¹³

ITEM Recepit de Willelmo Castell de bathonia pro fine tementi sui xx (li.).¹³

As the entry in the text is probably an extract from the original document, which may have been drawn up before John Cheney received knighthood, the omission of any title proves nothing.

¹⁵ Wyllemyndon, Wilmington, a hamlet of Priston, about five miles S.W. of Bath. Priston had been granted to Bath Abbey by Athelstan. J. Collinson, 'Hist. of Somerset,' i. 430. See n. 37, *infra*.

¹⁶ Chelworth or Chelwood, W.N.W. of Priston, and nine miles S.W. of Bath. In the Computus of Bath Abbey at the Dissolution is the following entry:

Manerium de Chelworth	l.	s.	d.
Redditus Assise	3	2	8
Firma Manerii	4	0	0

Dugd. 'Monast.' ii. 273.

¹⁷ Will proved in 1489, J. C. C. Smith, 'Index of Wills,' i. 114.

¹⁸ Probably connected with the great Bristol family. There was a Richard Canynge of Foxcote, Warwickshire, son of Thomas Canynges, lord mayor of London in 1456, who had married Agnes Salmon, the heiress of Foxcote. Thomas Canynges

was son of John Canynges and grandson of William Canynges, the elder, of Bristol, and therefore (elder) brother of William Canynges the younger. I can find no other mention of R. C. Hampton belonged to the bishops of Bath and Wells. G. Pryce, 'Memorials of the Canynges Family' (1854), Pedigree, i. p. 55, ii. p. 146. J. Collinson, 'Hist. Somerset,' iii. 394.

¹⁹ Broke was the name of a family of large landed possessions in Somerset, but Collinson does not connect it with Abbot's Leigh, nor have I otherwise been able to identify this person. John Broke, second lord Cobham, succeeded to the barony on the death of his father in 1464, but does not appear to have owned land in Abbot's Leigh. See J. Collinson, 'Hist. of Somerset,' iii. 152, 303.

²⁰ Also the name of a landed family in Somerset. Tweuerton, Twiverton, or Twerton is two miles S.S.W. of Bath. The will of John Baber or Babyr, of Chewstoke, Somerset, was proved in 1527 (J. C. C. Smith, 'Index,' i. 28). Chew Stoke is seven and a half miles S. of Bristol, and about nine miles W. of Tweuerton.

ITEM Receptit de Willelmo Schote de hampton iuxta bathoniam
pro Reuercione vnus tenementiiiiij (li.).¹³

ITEM Receptit de domina de hungerford ²¹ pro Relaxacione tituli
in manerio de Crykoff Thomas ²² in Comitatu Samercet ² . xl (li.).¹³

ITEM Recepit de quodam hibernico vocato parys²³ pro fine vnius tenementi infra terram hibernie²⁴ situati xx (li.).¹³

ITEM Recepit de magistro Johanni drouere pro vno corodio pro termino vite eidem concesso xx (li.).¹³

ITEM Receptit de domino Roberto Capellano suo pro Corodio ad
terminum vite concessio xx (li.).¹³

ITEM Receptit de Willelmo Walley ²⁵ de Bathonia pro fine molendini vj (li.).¹³

ITEM Receptit de Johanne Cole de oldeston²⁶ in Comitatu Somers-
cet pro sua manumissione²⁷ x li.²⁸ (xiii s. iiij d.).¹³

²¹ Probably Mary, lady Hungerford, as she styled herself (Nicolas, 'Hist. Peerage' [1857], p. 260), daughter and heir of Sir Thomas Hungerford by Ann Percy, daughter of Henry Percy, third earl of Northumberland (Collinson, 'Hist. of Somerset,' iii. 356. See Nicolas, 'Test. Vet.' i. 319). She married, before February 8, 1481, Edward Hastings lord Hastings of Hastings and Hungerford. She became in 1485 by the reversal of her father's attainder of 1463 *suo jure* Baroness Hungerford. Lord Hastings died November 8, 1506, and his widow in 1511 married Sir Richard Sacheverell of Ratcliffe on Soar, Notts. She died between 1528 and 1534. G. E. C., 'Complete Peerage' (1892), iv. 186. Cf. also p. 69, n. 11, *infra*.

²² Now Cricket St. Thomas. According to Collinson (iii. 116) this manor and advowson passed to the Hungerfords by the marriage of Margaret, daughter and heir of William Botreaux, lord Botreaux, to Robert second baron Hungerford, who died in 1459, leaving Robert third baron Hungerford (attainted and beheaded 1463) his son and heir (Nicolas, 'Hist. Peerage,' pp. 66, 260). Neither manor nor advowson appears among the estates of the abbey in the computus made at the dissolution (1540), Dugd. 'Monast.' ii. 273.

²³ Not an uncommon name in the Middle Ages. See sub Paris, Matthew, in 'Dict. Nat. Biog.'

²⁴ There were cells to the priory both at Waterford and Cork (Dugd. ii. 263), but no mention of land in Ireland occurs in the computus (Dugd. ii. 273). T. Tanner ('Notitia Monastica' [1744], pp. 461, 462) cites charters which show that the abbey

received grants of land in Ireland temp. John, some of which it exchanged for lands in England temp. Ed. 3. But in the reign of Henry 4 it still maintained a connexion with the hospital of St. John at Waterford, and that the connexion lasted till the Dissolution is suggested by the present of Irish hawks which the prior made to Cromwell. F. A. Gasquet, 'Hen. 8 and the English Monasteries' (2nd ed., 1888), i. 418.

²⁵ One of a family of citizens of Bath.
J. Collinson, i. 31.

²⁶ In the computus of 1540 the entry runs:

Olueston cum Rectoria	<i>l.</i>	<i>s.</i>	<i>d.</i>
Redditus liberorum Te- nentium	2	16	10
Redditus Assise	19	12	4
Redditus Terre et Tenementi pertinentis Rectorie . .	3	8	0
Firma Rectorie	17	16	0
Perquisitiones Curie . . .	nihil.		

The total revenue derived from this place was therefore 43*l.* 13*s.* 10*d.* It is reckoned in the computus also as in Somerset, as is Bristol, which there follows next in order. I identify it with Olveston, in Gloucestershire, nine miles N. of Bristol. In T. Tanner, '*Notitia Monastica*,' p. 462, it is given as Orleston (Gloucestr.).

²⁷ I.e. of a *nativus* or bondman by blood. On the continuance of bondage in England see I. S. Leadam, 'Law Quarterly Review,' ix. 348: 'The last days of Bondage in England.'

²⁸ The first of the two paper leaves on which this account is written ends here.

ITEM Recepit de Johanne Gravell de Inglesbache²⁹ iuxta Bathoni-
niam pro fine rectorie appropriate dicto prioratui posite ad firmam
(xlvij s. viij d.).¹³

ITEM Recepit de Johanne de bathweke³⁰ iuxta Bathoniam pro
Corodio eisdem² concessus² vj li. xiiij s. iiij d.³¹

Summa totalis dicte Recepte vj^c lx vij li. xij s. iiij d.³²

ITEM dictus venerabilis pater dompnus Johannes dunster nuper
prior Ante dictus devastavit staurum³³ Maneriorum dictum³⁴

IN PRIMIS de manerio de Sothstoke³⁵ iij Capita boum cum j
Tauro.

ITEM de Manerio de Combe³⁶ iij Capita boum ij Capita vaccarum
iij Capita Bouiculorum et quinque³⁴

ITEM de Manerio de preston³⁷ j taurum xiiij Capita boum viij
Capita vaccarum & quinque vitulorum.

ITEM de manerio Coston³⁸ x Capita boum viij Capita vaccarum
& xiiij Capita bouiculorum cum j tauro.

²⁹ A hamlet in Englishcombe, the church of which still displays the arms of Bath Abbey (J. Collinson, iii. 340-341). In the computus of 1540 the 'Firma Rectorie' appears as 7*l.* 10*s.*

³⁰ This looks like a place name in default of a surname.

³¹ The sum, when compared with the prices paid for double corodies above, looks as though 'eisdem' was a mistake for 'eidem.'

³² The sum of receipts at the time of the construction of the refectory, i.e. beginning with lady Estmounde, is 559*l.* 1*s.* The inclusion of the two previous accounts of 60*l.* 6*s.* 8*d.* and 84*l.* brings up the total to 703*l.* 6*s.* 8*d.*

³³ Staurum, store. From the examples given by Du Cange it appears to be a word exclusively of English use.

³⁴ A word missing. Paper torn.

³⁵ In the computus of 1540 the following entry occurs (Dugdale, 'Monast.' ii. 272):

	<i>l.</i>	<i>s.</i>	<i>d.</i>
Manerium de Sowthstocke			
Redditus Assise . . .	9	6	2 ob
Firma Manerii . . .	12	0	2
Redditus Mobilium . . .	0	3	2 ob
Perquisitiones Curie . . .	8	1	

The total revenue from this manor was therefore 21*l.* 17*s.* 8*d.* South Stoke is two miles S.W. of Bath. See J. Collinson, i. 136.

³⁶ The computus of 1540 gives (Dugd. l.s.c.):

	<i>l.</i>	<i>s.</i>	<i>d.</i>
Manerium de Combe			
Redditus Assise . . .	7	19	10
Firma Manerii . . .	13	14	4
Redditus Mobilium . . .	0	3	9
Perquisitiones Curie . . .	nihil		

The total revenue from this manor was therefore 21*l.* 17*s.* 11*d.* Combe Monkton or Monkton Combe is three miles S. of Bath. The manor was held by the abbey at the time of Domesday. Collinson, i. 151.

³⁷ The computus of 1540 gives (Dugd. l.s.c.):

	<i>l.</i>	<i>s.</i>	<i>d.</i>
Manerium de Preston			
Redditus Assise . . .	17	19	3
Firma Manerii . . .	11	8	4
Redditus Mobilium . . .	0	4	1
Perquisitiones Curie . . .	0	13	4

The total revenue from this manor was therefore 30*l.* 5*s.* 0*d.* It appears in Collinson as Preston. See n. 15 supra.

³⁸ The computus of 1540 gives (Dugd. l.s.c.):

	<i>l.</i>	<i>s.</i>	<i>d.</i>
Manerium de Corston cum Rectoria			
Redditus Assise . . .	13	4	1 ob
Firma Manerii . . .	12	0	0
Firma Rectorie . . .	2	0	0
Redditus Mobilium . . .	0	6	3
Perquisitiones Curie . . .	3	11	1 ob

The total revenue from this manor was therefore 31*l.* 1*s.* 6*d.*

The above extract corrects a mistake of

ITEM de manerio de Northstoke³⁹ ij Capita boum & vij Capita vaccarum cum j tauro.

ITEM de Manerio de lymcombe⁴⁰ xij Capita boum.

ITEM de Manerio de hainewell⁴¹ xxx Capita boum vaccarum et bouiculorum.

Debita que debentur tempore dicti venerabilis prioris dompni Johannis Dunster in quibus dictus prioratus Redditur obnoxius certis creditoribus vt sequitur.

IN PRIMIS Fraternitati Sancti Georgii in Ecclesia Sancti Jacobi Bathoniensis vj li. quas recepit.

ITEM Isabelle Browkede Bathonia xxxix li. xij s. iiij d. quas recepit nomine mutui.

ITEM Johanni barbor de bathonia iiij li
ITEM Andree Bedforth⁴² de bathonia xj li.
ITEM Ricardo fluet⁴³ de penford⁴⁴ lxxxxij li.
ITEM de Johanni Gaynard de Brystoll marcatori xx li.

Collinson, iii. 345, who cites 'Regist. Priorat. Bathon.' for the statement that the abbey, which held this manor in Domesday, alienated it to the family of St. Lo in exchange for other lands temp. Hen. 1. It appears, however, from Collinson's references, that there was a lay manor here, and it must be inferred from this document and from Dugdale that a lay and an ecclesiastical manor co-existed.

Corston is four miles W.S.W. of Bath.

³⁹ The computus of 1540 gives (Dugd. l.s.c.):

	l.	s.	d.
Northstooke			
Redditus Assise . . .	8	11	6 ob
Firma Manerii . . .	8	15	4
Firma Gregis . . .	7	0	0
Agistamenta . . .	1	13	4
Perquisitiones Curie . .	0	13	4

The total revenue from the manor was therefore 26*l.* 13*s.* 6½*d.* The manor was given to the abbey about 800 A.D. by Kenulf, king of Mercia. It lies about four miles N.W. of Bath. Collinson, i. 134.

⁴⁰ The computus of 1540 gives (Dugd. l.s.c.):

	l.	s.	d.
Lyncombe et Wydcombe			
Redditus liberorum tenentium . . .	0	15	7
Redditus Assise . . .	19	2	8
Manerium de Lyncombe.			
Firma Manerii . . .	19	7	8
Certi Redditus cum operibus . . .	0	15	10 ob

The total revenue from the manor was therefore 40*l.* 1*s.* 9½*d.*

Wydcombe or Widcombe 'is situate on the S. side of the Avon, which divides it from Bath' (Collinson, i. 168). At the time of the Domesday survey the two manors were worth 12*l.* yearly (id. p. 171). Lyncombe is contiguous to Wydcombe.

⁴¹ The computus of 1540 gives (Dugd. (l.s.c.):

	l.	s.	d.
Hameswell, Tatwyke et Colde-assheton			
Firma Manerii . . .	24	0	0
Redditus Assise . . .	18	7	2
Redditus Mobilium . . .	0	3	0
Perquisitiones Curie . .	0	17	0

The total revenue was therefore 43*l.* 7*s.* 2*d.* But this represents two manors, viz. that of Cold Aston, in Gloucestershire, in which Hameswell was situate (S. Rudder, 'Hist. of Gloucestershire' [1779], p. 240), and Swanswick or Swainswick, in which Tatwyke was situate. Collinson, i. 154.

On the inferences derivable from the accounts of these manors and of the waste alleged to have been committed by the abbot, see Intro., pp. lxxii-lxxiii, supra.

⁴² Returned to Parliament for the City of Bath in 1467. Collinson, i. 21.

⁴³ Probably the Richard Fluett, of St. James's parish, Bath, whose will was proved in 1497. J. C. C. Smith, 'Index,' i. 205.

⁴⁴ Pensford; about eight miles W. of Bath.

ITEM de Johanni payne de mellis vj li.
 ITEM de Waltero lyncell de Brystoll Marcatori iij li. vj s.¹²
 Summa debiti predicti viij^{xx} xj li.⁴⁵

In quorum omnium et fidem & testimonium Sigillum nostrum
 Commune presentibus apposuimus. Datum in D(omo) nostra
 Capitulari quartodecimo die mensis Februarii Anno domini millesimo
 ccccl(xxxij) ⁴⁶ Et Anno Regni Regis Ricardi tercii post conquestum
 Anglie primo.⁴⁷

D.¹

(Fi)rst the said Abbot then prior ³ of ³ Bath ³ ressauid of the lady
 Esemund wydoe for a certen annuite of x marcs to her grauntyd
 cxl li.

(Also) ² the seid Abbot let at ³ morgage * ⁴ J(ohn)
 Champneys the manor of Chellworth for the wh(ich) * ⁴ seid
 prior resseyud of the same John e marcs.

(Also) ² the seid Abbot resseyud of John ⁵ (Chauunc)eler ⁶ * ⁴
 * ⁴ for the repaiment to ³ the seid * ⁴ * ⁴ Hamdon &
 ouer that grauntyd the same John & to John his son * ⁴
 Annuyte of iiij marcs wherwith the seid prior is chargyd vnto the
 same John * ² be promotyd to a benefyce of xx marcs.

(Also the sei)²d Abbot resceyued of Richard Canynges of Hampton
 beside Bathon xl marcs.

(Also the) ² same Abbot ressauid of John Broke of lye abbatis
 beside Bristoll for a corodye to hym & his wyf for terme (of
 their ly)²ves lvij marcs.

(Also the sei)²d Abbot hath ressauid of John Barbour of
 Teyuerton beside Bath for a corodye to hym & to (his) ² wyf for
 terme of their lyves xlvij marcs.

Also the seid Abbot resseyved of Alice Slugge his moder & Agnes
 Exston for a Corodye to theym for terme of their lyves xl li.

Also the same Abbot resceyued of William Castell of Batheston
 beside Bath for a fyne for a tenement xx li.

Also the same Abbot resceyued of William Shote de Hampton
 beside Bath for the reuersion of a tenement iij li.

⁴⁵ The sum amounts to 182l. See Appendix : Summary of Accounts, vii. p. 35.

⁴⁶ The rest of the date torn off. Reckoning the year as beginning March 25, the missing figures would be 'xxxij.'

⁴⁷ 1484, N.S.

¹ This is a fragment of parchment

much injured by damp and torn.

² Parchment torn.

³ Reading doubtful, MS. very illegible.

⁴ Illegible.

⁵ Qu. Jane with some word preceding it interlined. MS. very illegible.

⁶ Restored from the Latin version, p. 28.

Also the same Abbot hath ressauyd of lady hungerford for a relesse of a tittle in the manor of (Crykof)f⁶ Thomas in comitatu Somerset xl li.

(Als)o² the same Abbot ressayued of on hibernico callyd parys for a Fyne of a tenement lette within the land (of)² Ireland xx li.

(Also) the same Abbot resceuyd of master John Drover for a Corodie to hym grauntyd for terme of lyf xx li.

(Also the)² same Abbot resceyved of sir Robert his Chapeleyn for a Corodye to hym grauntyd for terme of his lif xx li.

(Also the sam)e² Abbot resceyved of William Walley of Bath for a Fyne of a milne vj li.

(Also the)² same Abbot resceyvyd of John Cole of Oldeston in the Countie of Somerset for his manumyscion x li. xiiij s. iiij d.⁷

(Also t)² he same Abbot resceyued of John Gravell of Inglisshcombe beside Bath for a Fyne of a parsonage appropriated (to the)² seid Priorye & lett to ferme to the seid John xlvij s. viij d.

(Al)so² the seid Abbot resceyued of John of Bathwyk for a corodye to hym graunt for terme of his lyff vj li. xiiij s. iiij d.

E. The shewyng off John thabbott off seynt Augustynez besides Canterbury concernyng a matier bitwen hym and the priour off Bath.

The seid Abbott seith that the matier off the byll off the seid priour is insufficient and he owith nott to be putt to answeere there vnto nor to be called hider upon the seid matier for such consideracion as haith ben shewed by the seid Abbott in a byll late putt in by hym as by the statute alleged by the seid Abbott and by the statute off magna carta in which the grete sentence off holy church is yeuen upon them that be brekers theroff¹ and by dyuerse other statutes it haith bene laudably ordeyned enacted and establisshed. And wher the seid priour surmitteth pouertye in hym and his monastery to thentent to cause the seid Abbott to be putt to answeere her, the seid Abbott seith that that is no consideracion to cause hym to be putt to

⁷ The price of manumission of Thomas Carter by the Abbot of Malmesbury between 1424 and 1434 was 40 marks (26*l.* 13*s.* 4*d.*). See Carter *v.* Malmesbury, Abbot of, p. 118.

¹ Referring to Edward I's confirmation of the charters in 1297, art. 4. 'And that all archbishops and bishops shall pronounce the sentence of great excommunica-

tion against all those that by word, deed, or counsel do contrary to the foresaid charters, or that in any point break or undo them. And that the said curses be twice a year denounced and published by the prelates aforesaid.' W. Stubbs, 'Select Charters' (7th ed. 1890), p. 496.

answer her and is butt feyned by the seid Priour to putt the seid Abbott and his monastery to coste trouble and vexacion For the seid priour nor his monastery is nott in any such pouertye as is by hym surmitted. For the seid priour commonly rideth with xvij horses or therabout and his seruantes all in one lyverey or clothynge² And vseth nott hym self lyke to a man beyng in pouertye nethyr in his ridyng ner in his other dedes Wherfor the seid Abbott prayeth and demaundeth as he haith prayed and demaunded in his other bill &c.

APPENDIX.

SUMMARY OF ACCOUNTS.

ACCOUNT I.

Paid by	Sum paid down		No. of years' purchase.	Object
	Marks (162)	£ 108		
Corporation of Plimmoth			18	Commutation of fee farm rent of 9 marks.

II.

Paid by	Sum paid down			No of years' purchase	Object
	Marks	£	s. d.		
Joan Atwell . .	(150)	100	0 0	50	Perpetual annuity of 2 <i>l.</i>
Thomas More . .	300	(200	0 0)	33 $\frac{1}{3}$	" " 6 <i>l.</i>
John Thweneho .	400	266	13 4	26 $\frac{2}{3}$	" " 10 <i>l.</i>
	850	566	13 4		18 <i>l.</i>

III.

Value of plate carried away 84*l.* 0*s.* 0*d.*

IV.

Value of plate, vestments, &c. 60*l.* 6*s.* 8*d.*

² Rather a plea ad invidiam than a suggestion of an offence against the Statutes of Liveries. By the act of 1468 (8 Edw. 4.

c. 2) no man might give livery or badge or retain any person other than his menial servant, &c. See Introd. p. lxy.

V.

Paid by	Sum paid down			No. of years' purchase	Object
	Marks	£	s. d.		
Estmounde . . .	(210)	140	0 0	21	Annuity of 6 <i>l.</i> 13 <i>s.</i> 4 <i>d.</i> (10 marks).
Chaney's . . .	100	(66 13 4)		50	Annuity of 1 <i>l.</i> 6 <i>s.</i> 8 <i>d.</i> for 2 lives.
Chawnceler . . .	100	(66 13 4)			Annuity of 2 <i>l.</i> 13 <i>s.</i> 4 <i>d.</i> conditional : interim 4 per cent.
Canynge's . . .	40	(26 13 4)			Corody, 3 lives.
Broke . . .	57	(38 0 0)			Corody, 1 life.
Baboure . . .	48	(32 0 0)			Corody, 2 lives.
Slougge . . .	(60)	40 0 0			Corody, 2 lives.
Castell . . .	(30)	20 0 0			Fine.
Schote . . .	(6)	4 0 0			Sale of reversion.
Hungerford . . .	(60)	40 0 0			Surrender of title.
Parys . . .	(30)	20 0 0			Fine.
Drover . . .	(30)	20 0 0			Corody, 1 life.
Sir Robert . . .	(30)	20 0 0			Corody, 1 life.
Walley . . .	(9)	6 0 0			Fine.
Cole . . .	(16)	10 13 4			Manumission.
Gravell . . .	(3½ + 1 <i>s.</i>)	2 7 8			Fine.
Bathweke . . .	(10)	6 13 4			Corody, ? 1 life.
	839½ + 1 <i>s.</i>	559 14 4			

VI.

ACTS OF WASTE.

	Oxen	Cows	Calves	Bulls	Sheep ?
Sothstoke	4	—	—	1	—
Combe	3	2	3	—	5
Preston	13	8	5	—	—
Coston	10	8	13	1	—
Northstoke	2	7	—	1	—
Lymcombe	12	—	—	—	—
Hainewell ¹	(10)	(10)	(10)	—	—
	64	35	31	3	5

The average price of oxen in 1481-90 was 16*s.* 0½*d.*; of calves 2*s.* 1½*d.*; 'oxen are double the price of cows'; 'as a rule 10*s.* is the maximum price for a bull.' The average price of muttons in 1481-90 is 2*s.* 4*d.*' (J. E. T. Rogers, 'Hist. Agr. and Prices,' iv. 331-356). Upon these data, assuming the 'quinque' at Combe to refer to sheep, we have the following approximate money value of the abbot's acts of waste:—oxen, 51*l.* 5*s.* 4*d.*; cows, 14*l.*; calves, 3*l.* 5*s.* 10½*d.*; bulls, 1*l.* 10*s.*; sheep, 11*s.* 8*d.*; total, 70*l.* 12*s.* 10½*d.*

¹ Oxen, cows, and calves together numbered thirty. The calves at Combe were 'boviculi' (steers); at Preston vituli; at Coston and Hainewell, boviculi.

VII.

	£	s.	d.
Received from Gild of St. George, Bath	6	0	0
Isabelle Browke	39	13	4 ²
John Barbor	4	0	0
Andrew Bedforth	11	0	0
Richard Fluet	92	0	0
John Gaynard	20	0	0
John Payne	6	0	0
Walter Lyncell	3	6	(8) ³
	182	4	0

COUPER v. GERVAUX AND OTHERS.¹

1493 To the kyng oure soueraign lorde and the lordes
of his most honorable Counsell spirituall &
temporell

Shewith and greuously complayneth vnto youre moost noble
grace youre true & feithfull Subget hugh Couper Citezein & draper of
youre Citie of london how that Where as he & many othre merchauntes
of your said Citie haue of long contynuaunce vsed to resorte euery yere
vnto the Feyre of Salesbury there holden & kept at oure lady day in
lent² in the Comen market place of that Citie and euery man to haue
his conuenient Rowme there to vtte in suche wares & goodes as he
bringith thydder to and for the same entent during the season that
the feire contynueth and at their departing to reward suche Officers as
be appoynted therfore by the same Citie euery man of his curtesy for
the standing at his pleassur and nothing of duetie, Trough it is
gracious lord that at oure lady day was twelvemoneth³ one John
Gervaux of the same Citie goldsmyth and John Chapman⁴ of the
same Chapman came to⁵ the bothe of youre said Oratoure and of hym
asked iiij^d for euery foote of grounde that he occupied bering hym in

² Nominally a loan.

³ Conjectural; paper torn; pence missing.

⁴ The sum is given as in the text 1711. See p. 32, n. 45, *supra*.

¹ S.C.P. Hen. 7, No. 29.

² Edward 2, during the episcopate of Roger de Mortival (1315-29), granted by charter to the bishop of Salisbury and his successors the perpetual right to hold a fair yearly from the vigil of the Annunciation to the morrow of its octave (March 24 to April 2) with all liberties and customs thereunto belonging not prejudicial to the rights of fairs in the neighbourhood. See

R. C. Hoare, 'History of Modern Wiltshire' (1843), vol. vi. (R. Benson and H. Hatcher), p. 741. The fair is mentioned in the Act of 3 Hen. 7, c. 9 ('An Acte that the Cytizens of London maye carry all manner of Wares to forrayne Markettes') as one of the seven provincial fairs of the most importance.

³ March 25, 1491.

⁴ Mentioned in 1469 as a collector of the king's ale (*cerevisia regalis*), Hoare, *ib.* p. 245. The money collected appears to have been expended in the purchase of vestments, *ib.*

⁵ Reading doubtful.

hande that it was theire duetie so for to haue the contrary wherof is openly knowen to be true and so because he asked theym what auctoritie they had to shew for theym wh[ereby] ⁵ to clayme the seid duetie they al to reviled hym & called hym knaue with other cruell & dispiteing wordes & thretes and there made assaute vpon hym, and finally by the supportacion & mayntenaunce of one Blakar ⁶ then maire there toke from hym by force & playne extorcoun a distresse [of his] ⁵ goodes and the same caried away with theym at theire pleasures without his love or leve expressely ayenste youre lawes to his grete hurt & wronges. And furthremore by the supportacion comforte and mayntenaunce of one Thomas Coke maire there the last yere ⁷ your said Oratoure being ⁸ at the said feire there came to his stalle one William halle the Bisshopps vndre baillif ⁹ there and then & there made a grete assaute vpon hym and hym threte to kill and slee out of hande without he wolde pay the seid money afre theire asking whervnto they haue no right which they nor none can shewe as it is euidently knowen ¹⁰ but onely of theire riall ¹¹ powere by myght & extorcoun, by meane of whiche trouble the same baillifff caused youre said Oratoure clerely to lose his feire & feate of merchaundise at that tyme to his grete hurt & losse fere and jeopardie of his lyfe In somuche that lest he shuld haue ben mured & slayne there amonges theym he was fayne to gette hym out of the Citie as hastily as he couth by possibilitie and yett as priuely as he departed thens the said baillif vtterely set and disposed to haue slayne hym lay in a waite ¹² vppon hym with iij hors & asmany men arayed in maner of werre and in riottoux wise that is to sey with swordes & buklers speres and othre defencible wapyns and on horsbak moffeld euerychone bicause they wold not be knowen & so pursued and folowed hym from the seid Citie of Sarum to Andover ¹³ bi theire ⁸ above said wher your said Oratoure mette with men of london as his

⁶ Thomas Blacker, mayor in 1489 and 1490.

⁷ Thomas Coke, mayor in 1491 (Hoare, vi. 696).

⁸ Parchment torn.

⁹ 'For a long series of years the bailiffs of the Bishop took precedency of the mayor of the city.' Hoare, vi. 698. Apparently this continued until a charter of James I vested in the mayor and commonalty the privilege of electing a bailiff and deputy-bailiff, ib. William Hall was in dispute with the mayor in 1491, ib. p. 208.

¹⁰ The City Ledger B, fol. 174, B, cited by Hoare (vi. 208), shows that in 1490 John Becket, clerk of the market for the

bishop, assigned to William (? Thomas) Blacker, the mayor, and the commonalty of Sarum the profits of the standings in fairs, markets and other places within the city. A committee of four persons was then appointed in convocation to set out for the ensuing year all manner of booths, stalls and standing places at such prices as they should deem reasonable. For these profits they were to account to the mayor and commonalty. Apparently then the charge was a new one, as complainant avers.

¹¹ I.e. Absolute. The same use of the word occurs on p. 46.

¹² Cf. p. 115, n. 9.

¹³ Seventeen miles and three quarters.

grace¹⁴ was¹⁵ & to theym resorted for saufgard of his lyfe & rode home with theym and so avoided theire malice at that tyme. Please it your good grace in consideracion of the premissez considering this youre said Oratoure [has]⁵ noun power to sue your comen lawe for his remedie in this partie ayeinst the said Citie by whom this matier is borne out of wilfulnesse onely without eny lafull grounde of your grete bountie to graunte hervpon your gracious lettres of priue seale directed to the seid Thomas Coke William Hall [John]⁸ Gervaux goldsmyth & John Chapman Chapman Charging theym streitly by the same to be and appere personally before your grace and youre said Counsell at youre palaice of Westminster vpon a reasonable peyne in the Vtas¹⁶ of the Purificacion of oure blessed lady next commyng to a[nswer]⁸ vnto the premisses and to suche thinges as then & there shall be objected & layd ayenst theym at the reuerence of God and in wey of Charitee.

In another hand. Emanarunt inde breuia sub priuato sigillo domini nostri Regis prout petitur primo die Februarii A[nno]⁴ [regni regis]⁸ Henrici vij^mi octauo¹⁷ ad comparendum apud Westmonasterium in octabis¹⁶ Purificacionis beate marie virginis proxime future s[ub]⁷ pena cuiuslibet eorum xl li.

Indorsed. Hugh Cooper contra Sarum.

VALE v. BROKE.¹

A. To the Kyng our Soueraign lorde and the discrete lordes of his moost noble Counseill

1493 Lamentable compleynyng showith vnto youre highnesse youre humble Subgiet and true ligeman Symon Vale² of Castell Bromwiche³ in youre Countie of Warrewyk, That Where oone John Broke and Alice his wiff of the same Towne of thaire grete malices and euyll willes beryng to youre saide besecher and to thentent vtterly to shame hym and his foreuer, hath openly disclaundred hym amonges his

¹⁴ Henry 7 frequently hunted in the New Forest.

¹⁵ Qu. 'there' omitted.

¹⁶ The eighth day, i.e. the seventh day after the feast, or February 9. See p. 231, n. 12.

¹⁷ 1493.

¹ S.C.P. Hen. 7, No. 48.

² Vale or de Valle was the name of an ancient knightly family in the county

whose chief seat had been at Ludington or Lodinton, near Stratford. W. Dugdale, 'Antiquities of Warwickshire' (1765), pp. 491a, 442b.

³ About 5½ miles N.E. of Birmingham. Apparently so called from a small castle of which only the tumulus remains visible commanding the ford over the Tame, held in 1270 by Henricus del Chastel de Bromwyz. W. Dugdale, ib. p. 620a.

neighburs that he his wiff children and all his kynne shulde be stronge theves and Comyn Robbers where as his neyghburs and other inhabitants in his Contrey will recorde he is a true man and all his household also, And ouer this the saide John Broke of his said malice hath suffred his bestes through his owne grounde to distroye the greynes of youre saide besecher to thentent vtterly to distroy and vndo him, Consederyng gracious Souereigne lorde that the said John Broke hath saide and done thies iniuries to youre saide besecher sith an obligacion of xl. li sealed and deliuered by hym to youre saide besecher was forfeyt, whiche obligacion is redy to be showed, In consideracion of the premisses, And that youre saide Oratour ys not able to sue the saide John Broke and his wif for his remedy at youre Comyn lawe ⁴ And that also the saide John Broke of his grete power holdith grete landes in the said parisshe of his lorde there and ys his Baillief, ⁵ for the whiche he payeth noo taske ⁶ to youre grace ⁷ but compelleth youre saide besecher and other his power neighburs aboute hym to pay his taske and tallage ⁸ to youre saide grace for the lande he occupieth and holdeth to thaire grete hurtes and impouerishment, And also by his said grete power the saide John and his wiff ar Comyn receyvours of thyves and vacaboundes for money to hym youen, And also is a Comyn resettour ⁹ and maynteners of Comyn quenes pristres lemans and kepith them for money in his house by vj or vij wekes and wole nat suffre them for his lucre to come to chirche to here goddes seruice to the grete Oborce ¹⁰ of all his pouer neighburs about hym and disclaundre to all the Contrey, So that for drede of hym and of suche persones adberautes to the saide theves and quenes, he for drede of his dethe dare nat contynue in his pouer hous, but of necessitie must inhabite hym in other places, And for the true pruff of the premisses, yf nede be, all the honest inhabitance of the saide parisshe wole yf thay be comaunded by your grace be redy to come

⁴ See *Introd.*, pp. cxxxi-cxxxii.

⁵ The lord of the manor was John Devereux, lord Ferrers of Chartley, b. 1463, d. 1501. Sir N. H. Nicolas, 'Historic Peerage' (1857), p. 186. Dugdale, *l.s.c.*

⁶ Another form of 'tax.' See W. W. Skeat, 'Etymological Dict.' (1882), s.v.

⁷ I cannot find that any land was held here either by the Crown or the Duchy of Lancaster. This, therefore, presumably refers to the fifteenth and tenth granted by the Parliament which met on Oct. 17, 1491, the last instalment of which was payable by Nov. 11, 1492. See Statutes 7 Hen. 7, c. 11, 'Concernens xv^{me}.'

⁸ 'Tallagium is a generall word & doth include all subsidies, taxes, tenths, fifteens,

impositions or other burthens or charge put or set upon any man & so is expounded in our books.' Coke, 2 Inst. 533.

⁹ I.e. receptor. To reset seems to have been used with this connotation.

'And ye hit make and that me greves
A den to reset inne theves.'

Cursor Mundi, MS. Coll. Trin. Cant. f. 91, quoted by J. O. Halliwell, 'Dict. of Archaic Words' (1850), s.v. The receipt of stolen goods knowing them to be stolen was a common law offence. Frequent cases of it are to be found in 'Select Pleas of the Crown' (Selden Soc. 1887), dating from the beginning of the thirteenth century.

¹⁰ Qu. abuse.

affore youre highnesse and youre saide Counseill at thaire propre costes to reporte the same. Please it youre highnesse the premisses graciously considred And that the said John Broke here now present for his false defamacion¹¹ and other hurtes to hym done And also for the saide mysbehavyng my be punysshed, Accordyng to his desert as right requireth. This for the loue of god and in the waye of charite And he shall pray to god for the preseruacion of youre full noble and Royall estate.

Indorsed. Symon Vale contra Johannem Broke & Aliciam vxorem suam. ¶ :

DONYNGTON v. BROKE.¹

B. To the kyng oure Souereigne lorde and the discrete lordes of his moost noble Counsell

Lamentable compleynyng showith vnto youre grace your faithfull Subgiet and true ligeman William Donyngton² of Castell Bromwiche in youre Countie of Warrewyk, That where oone John Broke and alice his wyff of the same Towne, Of thaire prepensed malice and euyll wille beryng vnto youre saide besecher and to thentente vtterly to destroye hym his wiff and Children for euer hathe openly noysed and deffamed hym amonges his neghburgs that he shulde felounesly Stele ij Oxen and them shulde ette in muresauce³ at Castell Bromwiche forsaid, And wille nat showe of whom he shuld stele the said Oxen, where gracous souereigne lorde youre said besecher is a true man and neuer mynded hym to doo suche thinges, as all his neyghburgs in the Contrey where he dwellyth and elles where in the saide Countie will testefye and recorde the same, Wherefore please it youre highnes the premisses graciously considred, and the wrongfull defamacion and shame⁴ that they wolde put hym to in his Contrey and he nat giltie

¹¹ See Introd., p. cxxxii.

¹ S.C.P. Hen. 7, No. 48.

² A person of this name, presumably a gentleman of the county, was nominated a commissioner in 10 Hen. 6 (1431-32), to seize into the King's hands the monastery of Alcester. Dugdale, 'Warwickshire,' p. 541b.

³ Brine. In Palsgrave's 'Lesclarcissement' (1530, ed. Génin, Paris, 1852, p. 244b): 'Mere sauce for flesshe—*sauimure*' (mod. French *saumure*. See Littré, s.v. *Saumure*; also Halliwell, s.v. *Meresauce*). *ette* for same tense occurs in Hampole's 'Pricke of Conscience,' line 4675 (Northern dialect).

⁴ This is a term of art. It is analogous to the 'moral' damage of the Roman-Dutch Law for which compensation was claimed after the raid into the Transvaal. A thirteenth-century example of it, among others, occurs in 'Select Civil Pleas' (Selden Soc. 1889), pl. 183, in which case the abbot of St. Edmund's (Bury) brought an action against the bishop of Ely for trespass upon the abbot's liberty and other proceedings: 'ita quod abbas non vellet habere pudorem quem episcopus ei fecit pro c. libris nec dampnum pro c. marcis. Et episcopus defendit dampnum et pudorem eius,' &c.

therof, So to provide for hym that the saide John Broke and Alice his wiff here nowe present affore youre grace and the lorde ⁵ of your discrete Counsell may be punysshed after thaire desertes, for the pure declaracion of the trouthe of youre saide besecher and to compell the saide John and Alice to shewe the names of the Aweners ⁶ of the saide ij Oxen of whom your saide besecher shulde stele them from. This for the loue of god and in the waye of Charite, And your said besecher shall dayly pray to god for the preseruacion of youre moost noble and Royall estate &c.

Indorsed. Willelmus Donyngton contra Johannem
Broke et Alitiam uxorem suam.

SMYTH *v.* BROKE.¹

C.

highness * 3 * 3 * 3 2 pituously sheweth vnto youre
Smyth and Elizabeth his wi]f³ of Castelbromwiche in youre Countie
of Warwyke how that he went of late * 3 * 3 *
and bought of oon Thomas feldworth of the same Towne a ston
of wool,⁴ which your said suppliant brought with hym home to his
owne hous, Therupon Alice the wif of John Broke of the said Castel
Bromwiche of pure malice withoute any iuste matier or lauful cause
came to the hous of youre said suppliant and said vnto his wif that
they had stolne the same wole from hir out of hir husbondes hous.
And furthewith the same Alice went to a village called Orton⁵ and
feched from a weyver there two Bothumys⁶ of hir owne yern and
came ayen to the hous of youre said oratour and called hym stronge
thefe and his wife herlot and asked of thaym how thay wold answer
to hir husbond and hir of the same wool that youre said suppliant
and his wif had stolne from theym and youre said suppliantes said
they bought the same wole truely and paied for it in the presence of
oone Thomas Jakson of the said Castelbromwiche, whiche wil testifie
the same matier. And furthwith the forsaid Alice Broke furiously
came to the hous of youre said suppliantes and with a naxe⁷ in hir

5 Sic.

⁶ Owners.

¹ S.C.P. Hen. 7, No. 48.

² The two or three opening words are indecipherable, the first three lines of this MS. having been much injured by damp.

³ MS. indecipherable, being much damaged by damp.

⁴ By an Act of the next year (11 Hen. 7, c. 4, 'An Acte for Wayghtes and Measures')

the stone of wool was fixed at fourteen pounds, which was probably its customary weight.

⁵ Presumably Water Orton in Warwickshire, N.E. of Castle Bromwich.

⁶ A bottom is 'a clew or nucleus on which to wind thread; also a skein or ball of thread.' J. A. H. Murray, 'Engl. Dict.' s.v.

⁷ Sic. Compare p. 56, where is 'a nother.'

hand ayenst youre lawes and peas riottously brake open the door of the same, and entred into it, entending to haue murdred and slayne youre said suppliantes had nat oone of thair neighbours beene which rescued thaym, natwithstanding that your said suppliant is hir gossipp,⁸ And yet the said Alice seing that she cowde nat haue hir intent of hir mishevous disposicion toke and threwe a great stone at the said Elizabeth and smote hir greuously vpon the baily being great with ij children, wherthorough the same children were borne and died, as it evidently appered vpon oone of thaym when it was wonden in the crysum,⁹ and she that won¹⁰ it wol recorde, and the said Elizabeth put in great ieopardie of hir lif. And ouer this where as the said Richard Smyth had send his doughter to Brymyngeham for ij barelles of Ale,¹¹ the said John Broke accompanied with ij indisposed personnes mete your said suppliantes doughter in your high way and ayenst youre said lawes and peas riottously toke from hir the said ij barelles and a mare of the goodes and Catailles of your said suppliantes which the said John and Alice kepe and occupie to thaire owne vse, besides other great iniuries that the said John and Alice haue doone to youre said suppliantes, Beseching mekely youre highnesse benignely considering the premissis, To commaunde the same John Broke and Alice his wif to comme and appere before youre noble grace and the discrete lordes of your honourable counsaill to answere to these great iniuries. And this at the reuerence of Jhesu to whom youre said suppliantes shal specially pray¹² for the preseruacion of youre most noble and Roial Estate.

At foot, in another hand.

Emanarunt inde litere xxvij die Januarii anno Regni

apud Westmonaste-

Regis Henrici vij ix^o ¹³ ad comparandum coram domino

rium crastino purificationis ¹⁴

Rege vbicunque fuerit infra x dies post visum literarum
et hoc sub pena cuiuslibet eorum lx li. ¹⁵

⁸ Either meaning sponsor or sponsor to her child. See Murray, s.v.

⁹ 'Wound in the chrism-cloth,' a white robe put upon a child at baptism and used for its shroud in the event of its dying within a month after. See Murray, s.v.

¹⁰ Wound.

¹¹ By 23 Hen. 8, c. 4 (1532) ('An Acte that no Breuers of Bere or Ale shall make their barrells kylderkyns nor firkyns within them, and howmoche the same barrells &c. shall conteyne') it was provided 'that every barrell for bere shall conteyne xxxvj

galons and that every barell for Ale shall conteyn xxxij galons.' This statute was later than the present case, but probably gave Parliamentary sanction to the general customary measures. On the variation in the quantities of ale and beer contained in vessels under the same name see J. E. T. Rogers, 'Hist. Ag. and Prices' (1882), iv. 546-7.

¹² 'To God' struck through.

¹³ 1494.

¹⁴ February 3.

¹⁵ This order seems originally to have

D.

The seid John Broke seith that the seid bill is insufficient and vncerten to be answerd vnto and the mater surmitted therein false
 * 1 * 1 [not]² determinable in this Court. Neuer-
 theles for the declaracion of the trouth in the premisses and for
 answeere he seith that betwene the wolles of the Peak and the wolles
 of the growyng of the Countie of Warwyk is grete diu[ersity]²
 * 1 * 1 knowen in euery county³ and he seith that
 bothe wolle and yerne was embesselled from hym out of his house
 and that * 1 * 1 unto the seid Alice his wif that parte of
 the same * 1 * 1 and yerne ther was in the house of the
 said Richard Smyth and therupon the seid Alice in pecible maner
 comme vnto the house of the seid Richard and there founde parte
 of * 1 * 1 wolle and chalenged it and also herde that ther
 was parte of the yerne which was embeselled from the seid John
 Broke in the house of a wever in Orton afforeseid and in likewise
 went theder and toke it as the propre goodes of her seid husbond
 which the seid Elizabeth vtterly denyed and seid that her seid
 husbond hadde bought the same wolle in the peke which was vntrue
 For it was and is openly knowen that it was of the growyng of the
 seid Countie of Warwyk and was the propre woll of the seid John
 Broke. And he seith that this was doone aboute the Fest of All
 Seyntes the viijth yere of your most noble reigne⁴ and after that the
 seid Richard and Elizabeth his wif entendyng by sinistre and vntrue
 Suggestions to cause the seid John Broke and Alice his wif to speke
 no more in that mater vntruly surmised that the seid Alice shulde
 then distroye ij Children in the bely⁵ of the seid Elizabeth which is
 feyned and vntrue for he seith that it was the weke before midsomer
 then next ensuyng⁶ or the seid Elizabeth was delyuered howe be it
 the seid Richard and Elizabeth before this time haue by a feyned bill

run as follows: 'Emanarunt inde litere xxvij die Januarii anno Regni Regis Henrici vij ix^o ad comparandum coram domino Rege vbicunque fuerit infra x dies post visum literarum et hoc sub pena cuiuslibet eorum lx li.' This is intelligible. The same hand apparently underlined 'coram domino Rege vbicunque fuerit' without striking the words through, and wrote above them, 'apud Westmonasterium crastino purificationis.' 'Visum literarum' is also underlined, but nothing written above. The form appears to have been that in use in the Privy Seal Office. Cf. Select Cases in the Court of Requests (Selden Society, 1898,

pp. 2, 18, 23). See further, *Introd.*, pp. xvi, lv, *supra*.

¹ MS. indecipherable, being much damaged by damp.

² Conjectural.

³ In the assessment of the value of various sacks of wool, printed in the *Rolls of Parliament* for 32 Hen. 6 (1454) and in J. E. T. Rogers's 'Hist. of Ag. and Prices,' iii. 704, Warwickshire wool is assessed as worth 86s. 8d. and Peak wool as worth 69s. 4d. a sack.

⁴ November 1, 1492.

⁵ An erasure of about two inches follows. ⁶ June 16-23, 1493.

of petition vnturly surmised that she shuld be delyuered within viij dayes next after that the seid Alice comme vnto the seid house of the seid Richard And where the seid Richard surmitteth that the seid John Broke shulde rioutously take from his doughter ij banelles of ale therto the seid John seith that the same day as is surmitted the same ij banelles to be taken the same John Broke was and yet is baylly ⁷ of Castelbromwich afforeseid and that a lawe day ⁸ was there holden the same day and grete apparans of peple and the doughter of the seid Richard the same day comme that wey with ij banelles of ale caryng them to be solde which the seid John Broke forasmoche as the peple beyng at the seid Court hadde grete necessitee therof toke it and agreed to pay therfor as moche as the seid Richard or his wif wolde resonably desire ⁹ and after that at the speciall labour and desire of the seid Richard and his wif and ther Frendes all maters and causes betwene hym and the seid John Broke were ended by arbitours betwene them indifferently chosen So that it was awarded that the seid Richard shulde restore vnto the seid John Broke a Cheyne and a wegge of iron ¹⁰ which he hadde taken of the seid John Broke before and that eyther of them that doone shulde be quite ayenst other and that notwithstanding the seid Richard of his wilfull and maliciouse mynde withoute grounde or cause resonable suied before this tyme a bill of Compleynt ayenst the seid John Broke before your highnes at Colyweston ¹¹ and therby put the same John to grete cost trouble and vexacion without grounde or cause resonable and nowe entyndyng also to put the same John Broke to more trouble and vexacion to thentent that the same John shulde geve vnto hym a Somme of money to eschewe suche trouble and vexacion hath brought the same John before your highnes by auctorite of Pryve Seale without grounde or cause resonable. Without that that the seid Richard bought the seid woll in the peke, And without that that the seid Alice called the seid Richard theffe or his wif harlot or that the

⁷ 'Bailliff' seems to have been specially used of officers in charge of a castle. See Cowel, 'Interp.' s.v.

⁸ 'Otherwise called View of Frank-Pledge or Court Leet.' Cowel, 'Interp.' s.v. Cf. p. 230.

⁹ 'An average of forty entries of ale by the barrel, principally London purchases, between 1405 and 1540 gives 3s. 4d. These are prices of the best quality in the year.' Rogers, 'Hist. Ag. and Prices,' iv. 549.

¹⁰ In 1501 the price of three iron wedges bought at Stamford was ninepence. Id. ib. 561 iii.

¹¹ In Domesday, Weston; in 1331 Colyn's Weston; now Colley Weston. It is in the N. of Northamptonshire, three and a half miles S.W. of Stamford. Here Henry 7's mother had a palace. 'Coly Weston for the most part is of a new building, by the Lady Margaret, mother to Henry the VII. The Lord Cromwelle had afore begunne a house ther.' J. Leland, 'Itin.' i. fo. 31; J. Bridges, 'Hist. of Northants' (1791), ii. 433-5. There appears to be a reference to a suit in the ambulatory Court of Requests.

seid John Broke or the same Alice is gylty of any suche riot trespass or offence as is surmitted by the seid bill. All which maters the seid John Broke is redy to proue as this Court will award and praieth to be dismissed out of this Court with his resonable Costes and damages for his wrongfull vexacion in this behalf &c.

CULFORD v. WOTTON.¹

A.

To the king our souerain lord

c. 1494 Lamentably shewith and greuosly complayneth vnto your highnesse your pouer treue liegeman John Culford of Brynkworth² in your Countie of Wiltes. That where as your said pouer Liegeman cam into the Courte of thabby of Malmesbury holden at Brynkworth aforsaid the xijth day of Aprille in the xiiijth yere of the Reigne of your noble progenitour³ king Edward the iiijth⁴ and then & ther becam tenaunt to the said Abbot⁵ and Conuent of the same and toke by copie of the said Courte like as Thomas Culford his fader ded and helde before in his lif a Messuage & half a rode of lande with thappurtenaunces called Feldmannys and ij Furlonges called Oxhey and Wodfurlonge with appurtenaunces for the which your said subgiert gave for his fyne to the said Abbot and his Steward iiij li. vj s. viij d.⁶ As in the said Copie thervpon made to your said liegeman and his wyf for terme of their lyves more playnly it doth apper Whiche Messuage & landes with their appurtenaunces they haue peasibly kepte and occupied euer sithen, according to their Coppie & as right requirith, Till now of late that oon Dane⁷ John Wootton Monk and kychener⁸ of the said Abbey to whom the forsaid Messuage and landes with thappurtenaunces ben limited for his parte to haue & receyue the rentes of the same as is accustumed⁹ of his great wilfulnesse and extorte power Seing that your pouer liegeman hath doon & made grete byldinges and costes vpon & in the same Messuage and landes in diuers weyes and hath implayed his said landes to his moost

¹ S.C.P. Hen. 7, No. 99.

² Five and three quarter miles E.S.E. of Malmesbury. The manor was still held by the abbey at the Dissolution. Dugd. 'Monast.' i. 264.

³ An inaccurate use of a common form.

⁴ 1473.

⁵ The abbot was John Aylee or Aylie, 1462-79. See Introd., pp. cxxiii-cxxiv.

⁶ Probably reckoned originally as 6½ marks, or thirteen angels (see Idele v. Abbot of St. Benettes Holme, p. 50, n. 5),

an indication that a change was in progress in the mode of reckoning money. Many such examples occur in the case of the Prior of Bath v. the Abbot of St. Augustine's, Canterbury, pp. 34, 35.

⁷ See p. 139, n. 8.

⁸ An important personage in a religious house. He sat at Abingdon on the left of the prior at meals. For his position and duties see T. D. Fosbroke, 'British Monachism' (1843), p. 123.

⁹ See Introd., p. cxxx.

avauntage & profite more than it hath ben before by his grete labour of husbondry to his grete coste & charge, The said Dane John Wotton of his covetous disposicion and royall¹⁰ power hath by force & armes sent diuers his seruantes and haue entred into the said Messuage wher as your pouer subgied and his wif dwelled in & them haue Riottously put ovte of their said possession bringing with them Bowes arrows swerdes bokelers grete Clubbes¹¹ and other weapons and brake vp the dores vpon your said suppliaunt and his wif and ther wold haue slayne your said suppliaunt onlesse by godes grace he priuely eschaped from them and also the said personnes when they wer in the said howse caste ovte al suche goodes as they myght fynd into the strete, and also gracious souerain lord toke the Childe ligging in the Cradell and caste the said Childe into the fire so that it is in perill of death or elles is dede alredy in evill example to other in that Contrey. Also gracious souerain lord the said Dane John Wotton and his said seruantes not content with their vnlawfull demeanynges kepith and withholdith from your said suppliant ligging in the said Messuage xl lode of hey, xv lode of diuers Cornes and more, withoute any mater or cause rightfull and other diuers thinges and also manashith¹² and dayly thretenith your pouer subgiet to murde¹³ & sle so that he darnot comme home to his wyf and occupie his husbondry as your true subgiet aught to doo whiche is contrary to your lawes & peax right and conscience and to the vtter vndoing of him and all his withoute your noble grace to them beshewed in this partie for your pour subgiet is not of power to sewe the said John Watton for his remedy by your commune lawe.¹⁴ Please it therfor your highnesse of your blissid charite and pitee the premisses tenderly considerid to graunte your gracioux lettres of priue seal to be directed vnto the said Dane John Wotton charging him straitle by the same that he be and personally aper befor your grace and your noble counsell at your palace of Westminster at a certain day this terme¹⁵ vndre a penaltie to answer vnto the premisses bringing with him Gefferey Parker compartiner of the said Riotte to obeye & abyde suche direccion as shal be thought consonant by your said Counsell to reason And that your said suppliant and his wyf may haue and enioye their said possession, and to haue restytucion of their said

¹⁰ See p. 37, n. 11.

¹¹ See *Walterkyn v. Letice*, p. 167, n. 2.

¹² Menaces.

¹³ Sic.

¹⁴ Presumably on account of the expense. On this plea see *Introd.*, pp. lxxxj, lxxxii.

¹⁵ Indicating that the Star Chamber then kept the legal terms. Probably it always did so, seeing they were kept by the Privy Council in 1426. Sir N. H. Nicolas, 'Proceedings,' &c., iii. 216. See *Introd.*, pp. lviii, lxiii, lxviii.

goodes with holden from theim by the said Dane John And Gefferey Parker this at the reuerence of god and our lady. And your said subgiel shal pray to god dayly for the preseruaciun of your moste noble & Royall estate.

In another hand. Emanarunt inde litere abbati¹⁶ dicti monasterii. Retornabiles Octabis Purificacionis¹⁷ proxime sub pena c li.

Indorsed. John Culford contra John Wotton Malmesbury Die ultimo Februarij.¹⁸

B. This is the Answer of dane John Wotton to the byll of John Culford.

The saide dane John seith that the mater conteyned yn the saide byll is mater feyned & ymagyned of malis by the saide John Culford to the Intent to putt the saide dane John Wotton to vexacon and trouble and also the saide byll is vncerten & insufficient to putt hym to answeere vnto wherof he prayeth allowans and for the declaracon of the trougth of the matyr conteyned yn the saide byll the saide dane John seith that as to any riott cummyng & entryng with fors & armys in to the saide mese brekyng vp of the doores castyng ovt of the goodys in to the strete and takyng of the Chylde lyying yn the Cradell and castyng in to the fyre manassyng and thretenyng and all other mysdemenyng surmytted ayenst hym yn the saide byll he is no wyse gylte and as to the Entre in to the saide mese the saide dane John seith that the saide John Culford helde the saide mese of his fadyr the abbot of Malmesbury¹ at wyll² by cople of court roll as of his maner of brynkworth as in the rigth of his Chirche and that the custome of the saide maner is & ovt of tyme of mynde hath bene that all Copleholders of the saide maner shall paye yerly rent for the pannage³ of ther swyne goyng vppon the wast⁴ grownde of the saide maner and the saide John Culford was often tymes required to paye

¹⁶ The abbot in 1494 was Thomas Olveston (1479–1509). See *Introd.*, p. cxxvi.

¹⁷ February 9.

¹⁸ Presumably the day fixed for the hearing.

¹ This refers to the original grantor, abbot Aylie. See A, p. 45, n. 5.

² In full, 'at the will of the lord according to the custom of the manor.' On the legal signification of this phrase see I. S. Leadam, 'Trans. R. Hist. Soc.' (1892), N.S. vi. pp. 209–220.

³ 'Lyndwood defines it thus : Pannagium est pastus pecorum in nemoribus et in sylvis utpote de glandibus et aliis fructibus arborum sylvestrium quarum fructus aliter non solent colligi.' Tit. de Decimis. J. Cowel, 'Interp.' s.v.

⁴ On the rise of the claim of the lords of manors to property in the wastes see 'Trans. R. Hist. Soc.', N.S. vi. pp. 254–257. These claims of the lords were fiercely resisted in the sixteenth century. See *ibid.*

his pannage rent for his swyne goyng within the wast grounde of the saide maner and all weyes he refused to paye it and yet doyth and for that cause at the court holden at the saide maner the xxiiijth day of Octobre the ixth yere of oure souerayn lord the kyng that nowis⁵ ther was founden by the homage ther a forfiture⁶ of the saide mese by the saide John Culford and theruppon a commaundement geuyn by the steward to the bayly of the saide maner to sease the saide mese in to the saide abbott is handis by fors wherof the bayly of the saide maner seasid the saide mese & put ovt therof the saide John Culford as was lawfull for hym to doo. All which matters he is redy to proue as this court wyll awarde & prayeth to be dysmysed with his resonable costes & expenses for his wrongfull vexacon yn that behalf.

c.¹

Dan John Wotton sworn vpon the bill of complaint and this his answer² deposith, that the customs by him alledged is treu and bi the time also alledged vsed in the said manor. And he saith that the complainant bi the space of xij or xiiij yere hath occupied the within wreten wast sometime with xx^{te}, sometime with xl^{te} and mo swyne, for which euery tenaunt so occapyng there hath ben vsed to pay for euery swyne there fedyng of half yere old ob. of a hole yere old and more j d. bi the yere, which euery of the said tenauntes haue treuly paid without condiccion, the said complaynant onlye excepte which hath ben yerlye of him required and he hath euer expresslye denyed payment sayyng thies woordes—I will occapye the said wast in despite of thabbottes and the Cofiners³ and Kechiners heds wherfore bi the homage⁴ there and bi an ordre of the law he forfeatyd his

⁵ 1493.

⁶ Coke's language of a century later was true at this time. 'But now copyholders stand upon a sure ground, now they weigh not their lords' displeasure; they shake not at every sudden blast of wind; they eat drink and sleep securely; onely having a special care of the main chance, viz.: to perform carefully what duties and services soever their tenure doth exact and custom doth require; then let lord frown, the copyholder cares not, knowing himself safe and not within any danger' ('Complete Copyholder' [ed. 1673], § ix.). Refusal to pay rent was a withholding of services, for which rent was a commutation, and worked a forfeiture. See I. S. Leadam, 'On the Security of Copyholders in the 15th and 16th centuries,' *Engl. Hist. Rev.* viii. 684.

¹ Indorsed on B.

² See p. 25, n. 27.

³ From 'coffin,' in the sense of the 'moulded crust of a pie.' Cf. Shaksp. 'Tit. And.' v. ii. 189: 'Of the paste a coffin I will reare.' J. A. H. Murray, *Engl. Dict.* s.v. This word 'coffiner' is not noticed by Murray. It evidently means 'pastry cook.'

⁴ 'The word "homage," habitually used of the suitors of customary courts, rather suggests that there was a time when customary courts had no existence, but only those who paid homage, the freeholders, exercised the right of manorial tenants. According to the jurists, the essence of a manor, viewed historically, consisted not in the customary tenants, but in the freeholders.' I. S. Leadam in *Trans. R.*

tenure, aswell for the nownpayment of his deutie as for the expresse denyng of payment⁵ aforsaid so long continued, after which the said Geoffray at thinstance of Mr.⁶ Cheyney high steward to the said abbot bought the said hous and land and when the said Geffray shold entre into the said hous, for that the said complainant willed not aduoyde the possession, as this deponent herde say,⁷ the same Geffray tooke the stuff of the said complainant and laide it oute of the hous, how or in what fourme this deponent can not say as he saith for by his oth he was neuer at the hous in all his lif, nether he sent any person to the hous, but as oone of the monasterye geving his assent at thinstance of Sir John Cheyney⁸ that the said Geffray shold haue the said hous and land. Albe it this deponent saith that or any graunte was made bi the abbot and Covent to the said Geffray, this deponent sent to the said complaynaunt to wete whether he wold do his dewtie as other tenauntes dyd or not and if he wold, he shold notwithstanding the office fand⁹ of forfeating his tenure haue it agen afore any man, the said complaynaunt gave euer ansuer obstinatlye he wold not sew for it nether he wold any thing pay, but he wold kepe his hold in despite as is aforsaid of thabbot and all his officiers. This deponent denyeth by his oth almaner of Ryott in his person or bi his commaundment supposd to be doone or bi any other mannys commaundment that euer he knew or herd of.

Hist. Soc., N.S. vi. 231, 232, where see further upon this point.

⁵ This was long settled law. In a case in the Year Book 42 Ed. 3, 25, a prior brought an action for trespass after eviction. The defendant pleaded that the land was his freehold. The jury found 'que le dit J. tient mesme le terre del Prior per copy de court rolle a volonte le Prior, pur ce que fut niefte terre, et pur ce que J. ne voet faire ses services de le terre, le Prior le seisist.'

⁶ I.e. Sir John C. See p. 18, n. 3.

⁷ Note here, as elsewhere, the acceptance of hearsay evidence.

⁸ This Sir John Cheyney was lord of the manor of Wansborough or Wantborough in Wiltshire, which had been forfeited by

attainder of Lord Lovel in 1487 (J. Aubrey, 'Wiltshire Collections' [ed. 1862], 195). He also held land of the abbey of Malmesbury at Charleton, Wilts (Inq. p. m. Hen. 7, 154). He must be distinguished from a contemporary Sir John Cheyney, who died July 14, 4 Hen. 7 (1489), leaving large estates in the Midlands. See also Prior of Bath v. Abbot of St. Augustine's, Canterbury, C, p. 27, n. 14.

⁹ 'Office doth signifie . . . also an Inquisition made to the King's use of any thing by vertue of his office who enquireth. And therefore we sometimes read of an office found, which is nothing else but such a thing found by Inquisition made ex officio.' J. Cowel, 'Interp.' s.v.

IDELE v. SAINT BENNETTES HOLME, ABBOT OF.¹

To the king oure soueraign lord & the lordes
of his mooste honorable Counsell spirituel &
temporell

1495 Sheweth & greuously complayneth vnto your moste noble grace
youre true & feithfull subget Thomas Idele, How that where as he
vppon saint petres even last past ² rode to the house of Saint Bennettes
of holme in Norffolk to thentent to deliuer vnto the Abbot ³ of the
same house your gracioux lettres vnder your priue Seel which your
said Oratour had purchased before vppon certain grete Iniuries by the
said Abbot of his grete myght & power to the wife of the said Thomas
commytted & doone contrarie to al right reason & good conscience,
lakking power to sue his remedie therin after the course of youre
comen lawe, It is so gracioux lord, that at the deliuerance of your
said lettres to the said Abbot in the presence of v or ⁴ of
his brethren monkes of the same house he receiued it without reuerence
by putting off his bonet or otherwise and whan he had it, threw it from
him into a wyndow in grete angre and or euer he opened it or red it,
he entreated your said Oratour to haue taken it home with him agayn,
and offred him a Noble ⁵ so to haue doone; Which to do your said
Oratour vtterly refused and for the bringing thidre of your said lettres
& for noon other cause, your said Oratour was right sore & ferefully
manasshed & thretened ⁶ by one of his Monkes ⁶ to bete kill & sle to
thentent to make other to be ware of bringing thidre eny priue Seales
⁶ hereaftre ⁶ saying that the best knight in the Shire durst nat haue
doone such a dede vnto them. And so youre said Oratour departed
thens in grete fere & jeopardie of his life, beseching your grace to
take such wey & direccion therin for the mysdemeanyng of the said

¹ S.C.P. Hen. 7, No. 69.

² St. Peter's Day is June 29. This occurrence took place on June 28, 1494, for the indorsement shows that this Bill was filed in Trinity Term, 1495, in which year Trinity Term began May 24 and ended June 15. J. J. Bond, 'Handybook of Rules and Tables for verifying Dates' (1866), p. 88.

³ Robert Cubyle or Cubitt occurs in 1499. His predecessor, Thomas Pakefeld, had died in 1492, and his successor, William Forest, was elected in 1505. Dugdale, 'Monasticon' (1846), iii. 65.

⁴ Blank of about an inch. It appears that viij or ix had been originally written,

the last figure being afterwards erased and the viij reduced by erasure to v. The blank for the alternative figures was then left unfilled.

⁵ By an indenture dated 1465 nobles or rials were to be coined in gold of the value of ten shillings. The old nobles of the value of 6s. 8d. were then called angels. This coinage was continued upon Henry 7's accession in 1485. R. Ruding, 'Annals of the Coinage' (1840), i. 283, 293. Nevertheless, in Eynesham, Abbot of, v. Harecourt, A, pp. 146, 153, the noble is reckoned as 6s. 8d.

⁶⁻⁶ Interlined.

Abbot & of his said Monke as by your highenesse shalbe thought consonant to reason & good conscience. At the reuerence of God & in wey of charitie.

Indorsed. Termino Trinitatis anno x^{mo}.

ij^{da} billa.

Thomas Ydele contra Abbatem sancti benedicti de Holme.⁷

In modern hand. Idele v. Abbot of St. Benett de Holme.⁸

TAPTON v. COLSYLL.¹

A. To the kyng oure souerayne lorde and the lordes of hys moyst honorabull Cowncell

1495 Lamentably in the moyst humble vise sheweth to youre hyghnes youre dayly Oratryx Alice late the wyffe of Wylliam Tapton late of Thorverton² yn your Counte of Deuynshyre that the sonday after corpus christi day the ix yere of youre moyst Ryoall reygne³ one John Colsyll than beyng meyre of youre Cetye of Exceestre⁴ in the seyd Counte sent Rychard Ebbisworthy Thomas Hampton and one Clement than hys seruantes Ryotuos persons in maner of werre Arrayed wyth bowes arrowez byllez swerdes and daggares to Torverton A fore sayd and by Commaundement of the same Colsell than and there the sayd Rychard Thomas and Clement Ryotusly with force and armys entryd with oute ony Ryght or title in to the howse of youre sayd bedvoman⁵ at A bake wyndowe in herr Chaumber and there here assautyd bete

⁷ This mitred Benedictine abbey was founded by Canute upon the relics of an existing house about A.D. 1020. Its yearly revenues at the Dissolution were, according to Dugdale, £583 17s. 0³/₄d., according to Speed £677 9s. 8³/₄d. (Dugdale, iii. 66). By an Act of Parliament of 1535 (27 Hen. 8, c. 45), the ancient barony and revenues of the see of Norwich were severed from it, and the barony and revenues of the abbey of Holme substituted in lieu thereof, 'in right of which barony the bishop of Norwich now sits in the House of Lords as abbot of Holme, the barony of the bishoprick being in the King's hands and the monastery never dissolved, only transferred by the statute before the general dissolution. The bishop of the see is the only abbot at this day in England' (F. Blomefield, 'Hist. of Norfolk' [1806], iii.

548). The Act, which annexed the barony of Holme to the see, confirmed the King's nomination of the abbot William Rugge, Reppys, or Reppes to be bishop of Norwich. Sir E. Coke, who had seen the house, having been educated at the Norwich Free School, says of it: 'The monastery (was) made of that strength as it seemed to be potius castrum quam claustrum.' 4th Inst., p. 46, note. Cf. the description of the walls of Eynesham Abbey, p. 142, *infra*.

⁸ No other papers of this suit have been found.

¹ S.C.P. Hen. 7, No. 17.

² Now Thoverton, six miles north of Exeter.

³ June 22, 1494.

⁴ Mayor 1493-94. See further Tayllour v. Att Well, A, p. 9, n. 18.

⁵ Bedewoman, i.e. petitioner. See p. 114, n. 3.

and sore wondyd in herre head and drew herre owte of the hall by the here of herre hede so that she was in dyspere of herre lyffe and froo Thens so beyng wondeyd and bledyng Caryed herre forth to youre sayd Cetye of Excestre and there put herre in preson and fetheryd⁶ herre on beyth herre legges wyth fettyres xxx li. weyght and more and be syd that causyd herre to be tyed with a Cheyne and wold not suffre herre by the space of x wekkys next folowyng to haue Cloythys nore strawe to lye on but ley apon the bare bordys with the sayd fetthers and Cheynys and wold not suffur herre to haue Eny surgeon to dresse herre sayd wonde bot so youre sayd bedwoman leye there wyth Ryght gret peyne by the space of xxiiij wekkys and more and youre sayd oratryx so lyeng in preson The same John Colshyll leyd suspecyon of felony on herre And Cawsed here iij tymes To be led wyth the sayd fetturs and Cheyn A moyng felons to the barre by fore your Commyssionerz⁷ ther and at the iij^{de} tyme youre sayd bedwoman was delyuerid by proclamacon⁸ and than the same Colsyll malysiciously dyssposyd in tendyng the dystruccion and fynally the deth of youre sayd Oratryx Toke suertye of pesse there A yens youre oratryx Where vpon she vas Remyttyd A gayne to preson where she leye and contenuyd vn to the Tyme that the sayd Colsyll was out of hys offys of maryalte and vj wekkys aftere on to the tyme that one John Atwyll⁹ fore Almes and petye with othere worshypfull men had compassyon on herre and lent to youre sayd bedwoman money to sew a supersedyas¹⁰ at Westminster for herre where by she was delyuerid out of pryson. Also gracys lorde When youre sayd pouere oratryx Was betten and Ryotuusly Caryed oute of herre sayd howsse to the sayd pryson The same Colsell Wrongfully entred in to all Thehouses¹¹ landys leyng within the sayd Towne of Thoruerton where of youre sayd bedwoman was possessyd & peysab(ly)¹² had Contenuyd herre possessyon by the space of xv yere & more beyng of the yerly valuy of xij marke¹³ A boue The Charges and the sayd Colsyll there Wrongfully And Extortyusly toke Certeyn goodes & Catell from youre

⁶ Fettered.

⁷ I.e. of assize or gaol delivery.

⁸ Presumably a proclamation of a general pardon; but I have failed to discover any such at this date.

⁹ See *Tayllour v. Att Well*, A, p. 7, n. 5.

¹⁰ 'Supersedeas is a writ in divers cases and signifies a general command to stay or forbear the doing of that which ought not to be done or in appearance of law were to be done, were it not for that whereon the

writ is granted. For example, a man regularly is to have surety of peace against him of whom he will swear; he is afraid and the justice required hereunto cannot deny him; yet if the party be formerly bound to the peace, either in Chancery or elsewhere, this writ lies, to stay the justice from doing that which otherwise he ought not to deny.' J. Cowel, 'Interpr.' s.v.

¹¹ 'And' omitted.

¹² Parchment torn.

¹³ 8l.

sayd oratryx os ¹⁴ the parcell & valuye aperyth in A Cedull ¹⁵ to thys byll Annexyd & oure all the forsayd Wronges in prysonment bettyng ¹¹ wondyng the sayd Colsyll hath Cawsyd your sayd bedwoman to spend by fanyd & sinistere Accons & by meyns in the lawe xl li. & more money to herre vttere vndoyng so that youre sayd bedwoman now ys of no powere ferthere to suye with oute youre good grace to herre be shewyd in thys behalf nowe Gratyus lorde hyt ys so that the sayd Colsell ys late dyssessyd ¹⁶ and youre sayd oratryx hayth syth the tyme of hys deyth ben with hys wyffe to haue rescyte of herre landes and recompens of herre goodes & Catell the whch she denyeth to do where for that yt wold ples youre hyghnes of youre moyst habundant grace The premyssyes tenderly to Conseder to graunt your lettere of preuay seall to be dyrecte to the sayd Issabell ¹⁷ late the wyfe of the sayd Colsyll ¹⁸ & his execortrice ¹⁸ that she may personally Apere A fore youre hyghnes And the lordys of youre moyst honorabull Cowncell At A certeyn day & Apon A certeyn payn by youre hyghnez to herre to be lymite and there Abyde and Abay all suche dyreccionz and Jugementes as to herre shall be A iugeyd be youre hyghnes and the sayd lordes of youre moyst honorabull Cowncell. And your poure oratryx shall euer pray to gode fore the preseruacyon of youre moyst Ryall Estayt &c.

Indorsed. Termino michaelis Anno xj^o. ¹⁹

Tapton contra viduam Johannis Colshyll.

In modern hand. Tapton v. Colsytt.

B. Theys be the parselles folowyng that the sayd John Colsell Wrongfully with holdyth from Aiyce Tapton.

In primys vj keyne pryse iij li. Item x bullokes price l s. Item ij geldynges price xx s. Item vj hogges price x s. ¹ Item xxj gesez prys viij s. Item vj Capons ij Cockes xiiij hennez ² prys viij d ² xviij ³ W(edders) xvj d the wedder xl Eues prys the Ewe x d. Item xv lambes prys the lambe viij d. Item Whete in the berne prys xiiij s

¹⁴ As.

¹⁵ Schedule.

¹⁶ He died July 21, 1495. Inq. p. m. Hen. 7, 1185. No land or tenements are returned as having been held by him at Thorverton.

¹⁷ 'Elizabeth' in the Inquisition. See ib. Document B shows Elizabeth to be correct.

¹⁸ Interlined.

¹⁹ Oct. 9, —; Nov. 28, 1495.

¹ Above this, apparently in another hand and ink, are the words 'fatetur iij^{or} porcos quos comparabat Colshill defunctus de kirkham Item xiiij vacas de eodem.'

² Interlined.

³ Parchment torn.

⁴ Dicit **A**¹
 Elizabet
 quod grana
 fennum atque
 brasium
 destruuntur.

iiij d. Item xx bussell of otyne malte prys viij s iiij d. Item in the felde ix acres of Whete prys iij li. Item iiij acres of Rye prys xx s. Item xj acres of otes prys xliij s. Item iiij brasen pottes prys xij s iiij d. Item vj pannez prys xx s. Item vj brewyng vesselles prys xx⁴ s. Item vj small tubbys prys vj s. Item iiij barelles prys v s iiij d. Item xxiiij pewter vessell prys x s. Item iiij sackes xld. Item ij pockes⁶ prys xij d. Item ij Regez⁷ prys xij. Item iiij syvez prys xij d. Item iiij Coferz prys iij s iiij d. Item iiij sadelles x s. Item ij mattakes xxj d. Item j peyckes iiij d. Item ij Bvelles⁸ viij d. Item ij hookes viij d. Item ij hachettes viij d. Item ij sawez xld. Item ij hangynges for beddes prys xx s. Item ij mattresses prys xij s. Item iiij payre of setes prys xij s iiij d. Item iiij Couerlettes prys xx s. Item iiij Candilstykes. Item other trasshez⁹ xx s.

MADELEY v. FITZHERBERT.¹

A. To the kyng oure souerane lord and to all the noble and discrete lordes of hys most honorable Counsell.

1496 Shewyth mekely vnto youre highnes noble and sadde discrecions youre humble & true liegeman & oratour John madeley of Quykkes-hull² in youre Countie of Stafford that where one John Fitzherbert³ of Norbury⁴ in the Countie of Derby Esquier the ixth day of the monyth of feuaryere in the ixth yere of youre moost noble reigne⁵

¹ Marginal note, apparently in the same hand.

⁵ Sic. The scribe had evidently begun to write Alice, but had struck it through.

⁶ Pokes, i.e. bags.

⁷ Qu. rakes.

⁸ Qu. bule, the handle of a pan &c. North. J. O. Halliwell, 'Arch. Dict.' s.v.

⁹ Perhaps not in the sense of 'trifles,' but with the original etymological meaning of broken objects. See W. W. Skeat, 'Etym. Dict.' (1882), s.v.

¹ S.C.P. Hen. 7, No. 13.

² Now Quixhall or Quixhill, a hamlet in the parish of Rowcester or Rocester, N.E. Staffordshire. Quixhall is about a mile S.W. of Norbury on the Staffordshire side of the Dove.

³ Eldest son of Ralph Fitzherbert, of Norbury, Derbyshire, by Elizabeth, only daughter and heir of John Marshall, of Upton, Leicestershire. Ralph Fitzherbert died March 2, 1484. John Fitzherbert was presented by the Inclosure Commissioners of 1517 for having broken the Acts against

inclosure by inclosing to pasture some thirteen acres of arable land at Upton, Leicestershire, of which manor he was lord, in 1489 (I. S. Leadam, Domesday of Inclosures [1897], i. 227). He married Benedicta, daughter of John Bradburn, of the Hoo, or Hoghe, Derbyshire, and had issue three daughters and one son Nicholas, who married in 1501 Dorothy, daughter of Sir Ralph Longford, but died in the lifetime of his father, s.p. John Fitzherbert died July 24, 1531, when Norbury passed to his only surviving brother, Sir Anthony Fitzherbert, Judge of the Common Pleas (Visitation of Staffordshire [1583], Historical Collections, Staffordshire [1883], iii. ii. 73; Sir B. Burke, 'Landed Gentry' [1900], p. 555). He has been supposed by some to have been the author of the 'Boke of Husbandrie' &c., but as to this claim see 'Dict. Nat. Biog.' Fitzherbert, Sir Anthony.

¹ Norbury was granted to William Fitzherbert by the Prior of Tutbury in 1125. Ib.

⁵ 1494.

come to Quykkysull aforesaid wyth viij persons in hys company to youre besecher vnknownen and then and there brake vp the dores of youre said besecher and entred in to hys house and there toke oute and draue a wey vj kyeñ and an horse and then draue to Glaxton⁶ and there ympounded⁷ them by the space of v dais where thurgh the horse died⁸ wyth oute any offence or trespace by youre said besecher to hym done & the kyne he kept youre said besecher compleynynd to my lord precedent⁹ who desyred hym to make delyuere¹⁰ and where also as the said John byfore that tyme toke frome your said besecher asmoche Corne and heye as amountyd to the summe of x mares¹¹ & more wherevpon youre said besecher compleynynd a fore thys tyme to youre said lordshyppys and had jugement that the said John Fitzherbert schuld make delyuere of the said godes a yene¹² to youre said besecher as in thys same Court it doth appere and as yet no delyuere canne haue to the vtter vndoing of youre said besecher wyth oute youre most benygne grace to hym here in be shewyd, please youre said highnes of youre most noble & habundaunt grace and youre noble & sadd discrecions the premisses tenderly to consider and the

⁶ This place does not appear on the new Ordnance map, but it was apparently adjacent to Quixhill. It is mentioned in a settlement by Sir John Blount in 1382 of 'lands in Denston, Glaston, Wyshall and Waterfall,' co. Stafford (Staffordshire Historical Collections, iv. ii. 77), and in the Inq. p.m. on Sir J. Blount in 1424, 'Lands in Denston, Watershall and Glaston, co. Stafford' (ib. 78). In a fine of M.T. 18 Eliz. (1575-76), the manor of Qwykesell, Qwyekeshill, or Qwyxhill, &c., and ten acres of wood there and at Glaston, Prestwood, and Denston passed. These last two places are near Quixhill. Qu. whether in these documents the mistake has been made of reading Glaston for Elaston, a village near Quixhill. The letter appears to be G in the documents of this case, but might have been wrongly transcribed by the lawyer's clerk, or might possibly be intended for E.

⁷ Impounded.

⁸ Where the cattle distrained were impounded in a pound overt it lay upon the owner to supply them with food (Coke upon Littleton [ed. F. Hargrave and C. Butler], 47 b). Where in a pound covert or close, as in some part of the distrainer's house, the onus lay on him (ib.). As to the practice of driving the cattle to a distance, see *Introd.*, pp. cxx, cxxi.

⁹ I.e. the Lord President of the Council of the Marches of Wales. This was William Smyth, bishop of Coventry and Lichfield in 1492. 'Coventry and Lichfield

were never two different bishoprics, but two different seats of the same see, which had sometimes a third at Chester' (G. Burnet, 'Hist. of the Reformation' [ed. N. Pocock, 1865], i. 429, n.). The lord president is in this case called the bishop of Chester, a common alternative designation of the bishops of Coventry and Lichfield. See Henry 7's letter to the University of Oxford recommending Smyth as Chancellor (R. Churton, 'Life of Bishop Smyth' [1800], i. p. 143). His London palace, outside Temple Bar, was called Chester Place (ib., p. 54).

¹⁰ By 34-35 Hen. 8, c. 26 ('An Acte for certayne Ordinaunces in the Kinges Majesties Domynion and Principallitie of Wales'), § 3, it is provided 'That there shalbe and remaine a President and Counsaill in the saide Dominion and Principallitie of Wales and the Marches of the same . . . whiche President and Counsaill shall have power and auctorytie to here and determyne by theyre wisdoomes and discreacions such causes and matiers as be or hereafter shalbe assigned to them by the Kinges Maieste as heretofore hath been accustomed and used.' From this it appears that, as Coke puts it, there was a 'court of equity before the president and councill there' (4 Inst. 242). Its jurisdiction was evidently modelled on that of the Council of England.

¹¹ 6l. 13s. 4d.

¹² Again.

grete wrong & jniury that he dayly doth to youre said besecher and no remedye can haue a yensst hym for the same of youre gracious & blessyd disposion¹³ by the aduice of your said discrete lordes to graunte your gracious lettres of priue Seale to be dyrectyd vnto the said John Fitzherbert straitly charyng & commaundyng hym by the same vpon his liegaunce to appere a fore youre said grace and the said noble lordes of your Counsell to Aunswere to the premisses and to soch other maters as at hys comyng schalbe allegyd a yensst hym and thys fore the loue of god and jn the wey of charite.

Indorsed. Madeley contra Fitzherbert.

¹⁴ Termino pasche anno xj¹⁵

Madeley contra Fitzharbard.

B. This is thanswere of John Fitzherbert Esquier to the bill of Complaynt of John Madeley.

The same John saith that the said bill is insufficient & vncerten to be answerd vnto and the mater conteyned theryn is mater determinable at the comen lawe & not in thys court wherof he prayth allowans.¹⁶ And ouer that he saith that the said John madeley byfore this tyme hath caused hym to appere before my lord president & the kynges Councill by virtue of a nother priuy seale where the said John madeley hath made the same compleynt agaynst hym yn euery point as he maketh now & nother more nor lesse wherunto he hath answerd the which mater as yett hangyth ther not discussed. All which maters the said John Fitzherbert is redy to prove as your gracious lordeship shall thynk resonable & prayth to be dismissed with his resonable costes & charges for his wrongfull vexaicon & trouble in this behalf.

Indorsed. Termino pasche Anno xj^o 15

Responsio Johannis Fitzherbert contra billam Johannis Madeley.

¹³ Sic.

¹⁴ Across.

¹⁵ Wednesday, April 20—Monday, May 16, 1496. J. J. Bond, Handybook (4th ed. 1889), p. 174.

¹⁶ In 1421 Henry 4 conceded a petition of the Commons that the exception that sufficient remedy could be had at the common law should discharge a suit before

the Council (Rot. Parl. iv. 156 a). This concession was to continue till the then next parliament, but the constant appearance of the plea in these documents suggests that it was regarded as a standing order liable to be overruled. Cf. Rot. Parl. v. 407 b (1427) and Stat. 31 Hen. 6, c. 2 (1453).

- c. This is thanswer of John Fitzherbert Esquier
to the bill of complaynt of John madeley.¹

The same John saith that the said bill is insufficient & vncerten to be answerd vnto and the mater conteyned in the same is mater determinable at the comen lawe & not in this court Wherof he prayth allowans And ouer that he saith that the said John madeley byfore this tyme hath cawsed hym to appere byfore my lord president and the kynges councell by virtue of a nother privy seale where the said John madeley hath made the same complaynt agaynst hym yn euery point as he hath made now & nother more nor lesse Wherunto he hath answerd, the which mater as yett hangyth there not discussed, But for declaracion of the trowth he saith one Kateryne hanley was seased in her demeane as of fee among other landes & tenementes of the said house in Quiksull & so seased of the same by name of all her landes & tenementes in Quyksull & prestwode² by a dede redy to be shewyd enfeofed one Rauff Fitzherbert³ Fader to the said John whos heyre he is³ to haue to hym & to his heyres en fee by force wherof he was therof seased accordyng & died, after whos deth the said John Fitzherbert as son & heyre to the same Rauff entred and was seased in his demeane as of fee and after the same John Fitzherbert the said day & yere at the tyme of the trespasse supposed came to Quyksull aforesaid with iij of his dayly seruantes as he most comenly vseth to walke & then & there found a hors & vj bestez damage fesaunt in his owne Frehold by force wherof the said John toke the said hors & bestes aforeseid & theym lawfully empownded within the same countie⁴ by the space of one day & one nyght and after that by request & desire of my lorde of lincoln⁵ then beyng bishopp of Chester they were deluyerd to the said John madeley sauff & sownd. And as to the takyng of the said cornes he saith the said Kateryne hanley was seased of the said landes and tenementes in Quiksull aforeseid wheruppon the said cornes were groying in her demeane as of fee & so seased by the

¹ A further answer had evidently been ordered with pleas to the substance of the plaint, the former answer (B) being insufficient.

² A hamlet about a mile N.N.W. of Quyksull, in Staffordshire.

³⁻³ Interlined.

⁴ This seems to indicate that Glaxton was not in Staffordshire, for the defendant omits to mention the place of the pound. See *Introd.*, p. cxx.

⁵ William Smyth, translated to Lincoln January 31, 1496. It is to be noted that he is not styled 'lord president,' which suggests that his interposition was in his capacity of a justice of the peace for Staffordshire, an office to which it was the practice to nominate bishops. He frequently resided at the manor of Pipe, Staffordshire, about fourteen miles south of Quixhill (R. Churton, 'Life of Bp. Smyth' [1880], p. 51). See also p. 55, n. 3, *supra*.

dede aforesaid therof enfeofed the said Rauff Fitzherbert to haue & to hold the said landes and tenementes to the said Rauff & to his heyres by force wherof he was seased accordyng & so seased died by force wherof the said John as son & heyr to the said Rauff entred & so was therof seased till by the said John madeley disseised and the said John madeley so beyng seased by disseyson sett⁶ the said landes & after the said John Fitzherbert entred agayne into the same landes & found the said cornes groyng vppon the same ground & reped part of them and then thabbott of Crokkesdon⁷ & sir Nicholas mountgomery⁸ knyght send⁹ to the said John Fitzherbert that the said cornes myght be inned¹⁰ vppon the said ground by the said abbott and yf the said John madeley byfore the fest of seint micholl next after¹¹ showyd not sufficient title to the said landes that then the said John Fitzherbert schuld have the said cornes as his own, and after at a metyng & communicacion at Roucester byfore the seid fest the said John madeley cowde not shewe sufficient mater nor title to the said landes wherfore after the said fest the said John Fitz-

⁶ Let. See Halliwell, 'Archaic Dict.' s.v.

⁷ It does not appear why the abbot of Crokkesdon and Sir Nicholas Montgomery intervened unless it was a neighbourly endeavour to compose differences. The abbot was subsequently appointed one of the three commissioners to take the depositions. Crokkesdon, Crokesden, or Croxden was a Cistercian abbey about three miles west of Rocester in Staffordshire. Its abbot at this time was presumably John de Chekewalton (W. Dugdale, 'Monast.' v. 660).

⁸ Born 1459, son of Nicholas Montgomery, who died in his father's lifetime, by Joan, daughter of Sir Nicholas Longford, and grandson of Sir Nicholas Montgomery of Leigh or Leghe, Staffordshire, and Cubley, Derbyshire (S. Glover, 'Hist. of Derbyshire' [1829], ii. 335). Sir Nicholas the grandfather was high sheriff of Staffordshire in 3 Hen. 6 (1424-5) and 22 Hen. 6 (1443-4). (S. Shaw, 'Hist. of Staffordshire' [1798], i. xxxv., xxxvi.) Leigh is about nine miles west, and Cubley about five miles south-east of Quixhill. Cubley was the principal seat of the family (Glover, ib.). The family of Montgomery were Yorkist in politics. On December 10, 1483, after Buckingham's abortive insurrection, Nicholas Montgomery, probably the one here mentioned, was nominated by Richard 3 a commissioner to inquire into accomplices of the insurgents in Staffordshire (Pat. Rolls 1 R. iii. pt. ii., m. 25 d, p. 393). He was a commissioner of

subsidy for the county in the same year (ib. p. 396). On May 1, 1484, he was made a commissioner of array for the county to raise troops against the anticipated invasion of Henry Tudor, Earl of Richmond, afterwards Henry 7 (ib., m. 19 d, p. 401), and again on December 8, 1484 (ib. m. 20 d, p. 491). But his name does not appear as having fought at Bosworth, and it is probable that he deserted the cause of Richard 3, for in little more than a fortnight after the battle he was nominated by the new king sheriff of the counties of Nottingham and Derby (Sept. 12, 1485, W. Campbell, 'Materials,' i. 548), receiving a reward of 50*l.* at Michaelmas, 1486 (ib. ii. 83). On November 29, 1489, he was, together with Prince Arthur and a number of others, dubbed K.B. (W. C. Metcalfe, 'Book of Knights,' p. 21). He married Joan, daughter of John Haddon, Esq. The date of his death does not appear to be known, though these papers show that it must have been after Easter, 1496. He left a son, Sir John Montgomery, who died in 1513, leaving three daughters, co-heiresses. Of these Helen, or Ellen, married Sir John Vernon, and carried both Leigh and Cubley into that family (Glover, l.c.; J. Pilkington, 'View of Derbyshire' [1789], ii. 248; S. Erdeswick, 'Survey of Staffordshire' [ed. T. Harwood, 1844], p. 255).

⁹ Sent.

¹⁰ Gathered in (J. A. H. Murray, 'Eng. Dict.' s.v.

¹¹ Sept. 29, 1495.

herbert toke part of the same cornes as lawfull was for hym to doo & accordyng to the agrement byfore had, the which cornes exceded not the value of xlvijs.¹² viij d.¹² & as to the heyre he saith it was then gresse groying within the said landes & tenementes of the which he was seased as is afore said & that he cutt downe the said gresse & made it heyre & caried it to a mease within the said landes & tenementes and after the said John madeley toke the said heyre to his owne proper vse. Without that that the said cornes & haye was to the value of x markes as he hath supposed and without that that he came to Quiksull aforeseid with moo personz than iij as he hath aforsaid and without that that ther is ony such jugement yn this present court apperyng of record in the maner & forme as he hath allegged and without that that the hors aforeseid died in his default as he hath allegged. All which maters the said John Fitzherbert is redy to prove as your gracious lordeshipp shall thynk resonable and prayth to be dismissed with his resonable costs and charges for his wrongfull vexacion & trouble in this behalf.

Indorsed. Termino pasche Anno xj^o ¹³

Nouum responsum per Johannem Fitzherbert

- d. This is the replicacion of John Madeley
to the answer of John Fitzherbert.

The seid John Madeley seith that his seid bill is sufficient and certen to be answerd vnto and more over he seith that on Watere Verney¹ was seased of the landes and tenementes now in variance amonge other landes and tenementes in his demeyne as of fee and died of them seased aftur whose deth all the seid landes and tenementes descended to one Elyzabeth hethcote² as to doughtere and heyre to the same water whose estate in the seid landes and tenementes the seid John Madeley nowe hath and his fadere by fore hym had and peseable occupied the same by the space nye of lxxx yeris.³ Without that that the seid Kateryn euer had any thyng in the seid landes and

¹²⁻¹² Interlined.

¹³ See A, p. 56, n. 15, supra.

¹ No person of this name appears in the pedigrees of the Verneys of Buckinghamshire and Worcestershire. A family of the name was settled at Bromshall, or Bromeshall, now Bramshall, Staffordshire, from the end of the twelfth century (temp. Rich. 1) to the early part of the fourteenth century (temp. Ed. 2), and at Marchinton, or Marchington, towards the close of the

fourteenth century (temp. Rich. 2). Erdeswick, pp. 510-13. Bramshall is about seven miles south of Quixhill, and Marchington about five miles S.E. of Bramshall.

² A family of this name held property in Chesterfield in the time of Edward 4, and long after. See Glover, ii. 293.

³ This places the death of or sale by Elizabeth Hethcote in 1416.

tenementes and Without that that any complaynt is hangyng by fore my lord precedent and the kynges Councell of the seid mater and Without that that the seid John Madeley disseissed the seid Rauff Fitzherbert of the seid landes and tenementes and Withoute that that the seid horse was euere⁴ delyuerid agayn to the seid John Madeley and more ouer he seith that the seid abbott of Crokodene and sir Nicholas mountgomery seyng the ryotwouse and wylfull dispocyon⁵ of the seid John Fitzherbert entreted hym that the seid Cornes myght be jnned vppon the seid ground and there to a byde till ferther title of the right of the seid landes myght be more perfetely knowen betwene them and by fore the dey lemitte by the seid abbott and mountgomery and by fore any comunicacion had bytwene them the seid John Fitzherbert came to the howse of the seid John madeley and hit dyd breke and caryed a wey the seid Cornes in to derby shyre. Without that that any agrement ware had that the seid John Fitzherbert shuld doo the same and also he seith that the seid John Fitzherbert dyd sell the seid hey to Alexander Cotis⁶ and Richard sclater wech had and Caried a wey the seid hey Withoute that that the seid John madeley had the same as by his seid answeere he haith supposed and forasmech as bifore this tyme the seid camplainte and title hath be made and shewyd by fore your gracyous lordesshippe⁷ and the kynges moste honorable Councell here in this place and the same answeere then made that nowe is made in effecte which title and answer with all ther circumstances were duly examyned by maister Tremele⁸ and maister vavisere⁹ and¹⁰ proves brought¹⁰ byfore them vppon the same Whech made report here in this Courte of the trewth that was proved aswell by euydence as by othere suffu-yente proves for the title of the same John madeley Wheruppon iugemente was here geuen that the seid John Fitzherbert shuld noo forther¹⁰ medyll¹⁰ in the seid landes and tenementes and also make amendes to the seid John madeley for the wronges that he had done vnto hym and theruppon an Jniunccion of xl li. was geuen vnto the seid John Fitzherbert which here apperith pleynly by mater of record which he hath broken of his owen knowlege wherfore the said John madeley preyeth that the seid John Fitzherbert may be amitted¹¹ to

⁴ Interlined in substitution for 'euere,' struck through.

⁵ Sic.

⁶ A family of this name was settled at Cotes, in Staffordshire, about twenty miles W. of Quixhill. Erdeswick, pp. 121, 122.

⁷ This, as also the defendant's answer (p. 56, *supra*), is presumably addressed to the Chancellor, Cardinal Morton.

⁸ See Goryng v. Earl of Northumberland, p. 99, n. 8.

⁹ Sir John Vavasour, Justice of the Common Pleas, Aug. 14, 1490, d. 1506. 'Dict. Nat. Biog.'

¹⁰⁻¹⁰ Interlined.

¹¹ This word, according to J. A. H. Murray, 'Eng. Dict.,' is the earliest form of

Warde for disobeyinge of the iugement here geven byfore youre seid lordesshipp and that he may be Compelled to fynd sufficient suerte to suffure your seid pore oratur to enioye his seid landes and tenementes accordyng to the rule ordinance and iugement here geven byfore youre seid lordesshippe in this same Courte bfore this tyme.

E. This is the reiondre of John Fitzherbert
to the replicacion of John Madeley.

The same John Fitzherbert seyth that the seid replicacion is jnsufficient and vncerteyn to be vnswerd vnto and Furthermore he seyth that hys seid vnswere is good and true in euery poynte as in hys seid answere he hath alleggyd Wythoute that, That the fadure of the seid John madeley had euer ought in the seid londes and tene-mentes but of the leessee of the seid kateryne hanley for terme of lyve of the seid katerine by a dede jndentyd wher off the on parte enseallyd with the seall of the fader of the seid John madeley remeyneth in the possession of the seid John Fitzherbert redy to be showed and Wythoute that That the seid John madeley hath the Estaite and Right of the seid Elizabeth heythecotes in the maner and forme as he hath supposed. All the whych materz the seid John Fitzherbert is redy to prove as this courte wyll a warde and prais to be dismyssed of this courte wyth hys resonable costes and chargez for hys wrongfull vexacionz and Troublez in this behalfe, and also prays that the seid John madeley mey fynde sufficient suertye to content and pey the costes and chargez of the seid John Fitzherbert, The whych to hym by yowre gracious lordeshypez shall be thought resonable to be awarded for hys wrongfull vexacionz and troublez in that behalfe.

Indorsed. MADLEY.

F. This is thanswer of John Fitzherbert to the bill of John madeley Wherby it is surmittyd that the said John Fitzherbert schold haue forfeited xl li. by reason of an Jniunccion gyuen by your grace in this court and cc li. by reson of a preuy seale to hym directed for procedyng in a certen assise.

The seid John Fitzherbert seith as to the said Jniunccion of xl li. that he by the lawe of the land ought not to forfait that penalte nor

admit, but qu. whether here it does not represent the Latin *amittere*, and mean 'sent away.' The writing is perfectly dis-

tingent. The word occurs in the sense of 'admitted' in *Whyte v. Gloucestre*, Mayor &c. of, A, p. 226.

yett to be condempned in the same But for the pleyne declaracion of the trouth the said John Fitzherbert saith that where he was Jnioyned that he schuld not medle with the possession of the said John madeley of such landes as were yn debate bytwene them byfore your gracious lordeshipp vnto the tyne¹ he shewyd to the Councell² more sufficiently for his title Therunto he saith that it playnly appereth by the same jniunceion that it was made & gyuen only for the interest of the said john madeley by cavse of his possession & for no cavse ellys which John madeley sith the tyme of the jniunceion by reason of a communicacion hadd bytwene hym & the said John Fitzherbert Fully agreed & assented that if the said John Fitzherbert cowde fynde such evidences as wold proue his title to the said landes & tenementes and the said evidences shewyd or cavsed to be shewyd to master litton³ vndertresorer of Englund that then the said John

¹ Sic.

² See Intro., p. xxiv.

³ Sir Robert Litton, or Lytton, of Litton, Derbyshire, a hamlet a mile S.E. of Tideswell. A Sir Robert Litton, knight, sat in the parliament of 1404 for the county of Essex ('Members of Parliament' [1878], i. 267). A certain Thomas Litton, 'the King's servant,' was nominated by Edward 4 on June 22, 1471, keeper of the gaol within the castle of York 'for his good service beyond the seas and in England'—that is, for assisting the return of Edward 4 or serving in the campaign of Barnet and Tewkesbury (Cal. of Pat. Rolls, Ed. 4, p. 260). Robert Lytton was commissioned on June 23, 1475, as one of the officers in command of a division of 2,000 archers who embarked from Weymouth to Brittany in co-operation with Edward 4's invasion of France by way of Calais (ib. p. 552; Sir J. Ramsay, 'Lancaster and York,' ii. 407). He was a member of a commission of three who were appointed about 1486 to borrow money from private persons in Middlesex (W. Campbell, 'Materials,' ii. 107; cf. W. Busch, 'König Heinrich 7' [Stuttgart, 1892], p. 297). On May 25, 1487, we find him already sub-treasurer, Lord Dynham being treasurer of England (Campbell, l.c.). He was a commissioner of array for Middlesex to raise archers for the relief of Brittany in 1488 (December 23) (ib. p. 385). For his services he, with two London citizens, obtained licence 'to export from London, Southampton, and Plymouth, by the Straits of Marrak, to foreign parts 170 sacks of wool' (February 7, 1489), a profitable privilege, enabling him to tap the Italian market (ib. p. 404). He also received a gift of cloth and fur (ib. p. 500). References to him occur in the Plumptre Correspondence (Camd. Soc. 1839). He was

executor to the will, dated July 24, 1492, of Sir James Blount (Nicolas, 'Test. Vet.' p. 415). In 1493 he bought the manor of Knebworth, Herts (J. E. Cussans, 'Hist. of Hertfordshire' [1877], Broadwater Hundred, p. 112). He was dubbed K.B. on the creation of Prince Henry Duke of York, October 31, 1494 (W. C. Metcalfe, 'Book of Knights,' p. 24). He was a commissioner for raising the aid granted to Henry 7 in 1503 in the county of Middlesex (Rot. Parl. vi. 540 b). He was also Remembrancer of the Exchequer, Keeper of the Great Wardrobe, Treasurer at War, and justice of the peace for Herts and Middlesex (MS. R. O., Exch. K. R. Mem. Roll, 21 Hen. 7, inter breviam, iii. dors.). His chief, Lord Dynham, nominated him executor of his will dated January 7, 1505 (Nicolas, p. 496). Cussans (l.c.) is, therefore, probably wrong in dating his death in 1504. His will was proved in 1505, he being described as of 'Freers Prechours, St. Benet Powiys Warff, London; Stanwell, Middlesex; Knybworth, Herts; Bucks' (J. C. Smith, 'Index of Wills,' ii. 349). According to Cussans he was twice married. His first wife, Elizabeth, was daughter and co-heir of John Andrews, of Bogleham, Suffolk, and widow of Thomas Wyndesore, Esq. (d. 1485), father by her of Sir Andrew Wyndesore, first Lord Windsor (Burke's 'Peerage'). Through her Litton acquired the manor of Stanwell, Middlesex ('Inq. post Mortem Hen. 7,' p. 16), the manor of Peper Harowe, Surrey (ib. p. 497), and the manor of Malshanger, Hants (ib. p. 964). His second wife is said by Cussans to have been Agnes, only daughter and heir of Thomas Rede, citizen of London, by whom he left two sons, William and Thomas, the elder of whom succeeded to

Fitzherbert shuld doo theryn as his title & the lawe required wher-uppon the said John Fitzherbert through such serche as he therfore made fownd diuers evidences which clerely shall proue his title both in lawe & consciens which evidences so fownd he sent by one Thomas Babyngton⁴ to the said master vndertresorer accordyng to the said agrement nott knavyng¹ as yett to the said John Fitzherbert oderwyse but that the said master vnder⁵ Tresorer was⁶ att that tyme⁶ hym self one of the Kynges Councell.⁷ And ouer that he saith that long tyme sith the said jniunccion gyuen to the said John Fitzherbert the said John madeley hath sued the said John Fitzherbert by fore the kynges Councell for this same mater wherby he hath wayued⁴ yn maner his sute in this court and so the jniunccion is vtterly dissolued by the same. Without that that euer the said John Fitzherbert sith the said jniunccion dispossessed the said John madeley And as to the said cc li. conteyned in the said priuy seale the said John Fitzherbert saith that he by the lawe of Englund yn no weyse ought to forfeit the same som of cc li. nor no parcell therof In so moche as it is ordeined by auctorite of diuers parlamentes that none of the kynges liege people schuld be putt to answer for ony such cause Wuthout he were brought yn by due Originall accordyng to the lawe of the land and that all other such processe & paynes shuld be taken for void & holden for error⁸ Wherof he prayth allowans according to the lawes

Knebworth. The family became extinct in the reign of Queen Anne (J. E. Cussans, l.s.c.). But a general pardon for any offences or omissions committed by Sir Robert Litton in the numerous offices held by him was granted on April 29, 21 Hen. 7 (1506) to his widow Elizabeth and his son and heir William, being his executors, which shows the accepted biography of him to be incorrect (see MS. R. O., Exch. K. R. Mem. Roll, 21 Hen. 7, inter brevia, iii. dors.). That he should have been selected by the two litigants as arbitrator in their dispute is probable evidence that they were acquainted with him as a neighbour. Litton is about twenty-five miles N.E. of Quixhill.

⁴ Of Dethick, co. Derby, and Kingston, Notts, eldest son of Sir John Babyngton, sheriff of Derbyshire and Notts temp. Edward 4 and Richard 3. Thomas Babyngton was a zealous Yorkist, being appointed by Richard 3, after the suppression of Buckingham's rebellion, a commissioner to inquire as to disaffected persons in Derbyshire and Notts (December 10, 1483) (Pat. Rolls R. 3, p. 393). He was also a commissioner of subsidy for Derbyshire in the same year (August 1, 1483) (ib. p. 395).

On May 1, 1484, he was a commissioner of array for Derbyshire to muster troops to resist the apprehended invasion of Henry Earl of Richmond (ib. p. 400); and again, on December 8, 1484 (ib. p. 490). But he seems to have become reconciled to the new dynasty, for in 13 Henry 7 (1498) he was nominated sheriff of Derbyshire and Notts (Sir B. Burke, 'Landed Gentry' [1900]). He married (1) Margery —, by whom he had no issue; (2) Edith, daughter of Ralph Fitzherbert, of Norbury, and sister to the defendant in this case, by whom he had nine sons and six daughters (ib.). His will was proved in 1519 (J. C. C. Smith, Index, i. 29).

⁵ Interlined.

⁶⁻⁶ Interlined.

⁷ The construction and sense are somewhat enigmatical. The meaning, apparently, is that Fitzherbert was under the impression at the time that Litton was a member of the Privy Council. In the list of the Privy Council formed by Polydore Vergil (Gandavi, 1557, pp. 1437-8) his name is not included, though that of his chief, Dynham, is.

⁸ See Introd., p. lxxix, p. 20, n. 6; also J, infra, p. 67.

therof made & purveid and yf the said John Fitzherbert be compelled by this court further to answer he saith that it appereth playnly by the Wordes of the said privy seale that the said payne of ce li. is only for the apperans of the said John Fitzherbert byfore the lordes of the kynges most honorable Councell & for no cavse ellys Which Commaundement he hath Well & playnly kept Without that that euer the said John Fitzherbert refused or set at nought the said privy seale but it humbly receyued accordyng to his duite in that behalf and Without that the said John Fitzherbert after that the said privy seale was delyuered vnto hym proceded in the said assise yn any other wyse than by the said John madeley for whose cause only⁴ the said priuy seale was directed vnto the said John Fitzherbert was fully assentyd & agreed. All Which maters the said John Fitzherbert is redy to prove as your gracious lordeshipp schall award & prayth to be dismissed out of this court with his resonable costes and damages for his wrongfull vexacion in this behalf.

*Indorsed.*⁷ Madley contra Fitzharbert.

G.

And overe hys furste¹ answer the seid John Fitzherbert seyth that yowre gracious lordeshype gaff licence to the seid partiez to haue a commynycacion of the materz dependyng in variance betwene theym by force wher of the seid parties compromittyd theym selff and were agreed to abyde the Rule ordinaunce and jugement of sir Robert litton vnderthesurer of Englon and of sir Jamez blount knyght,² by

¹ This apparently, though not certainly, refers to F.

² Third son of Sir Walter Blount, Lord High Treasurer of England and first Baron Mountjoy, 1465; d. 1474 (see 'Dict. of Nat. Biog.'). Lord Mountjoy's principal seat was at Elvaston, Derbyshire (J. Pilkington, 'View of Derbyshire,' ii. 102; see also J. Nichols, 'Hist. of Leicestershire,' iv. 524 and n.). The family were zealous Yorkists, Sir James's elder brother Walter being killed fighting for Edward 4 at the battle of Barnet in 1471 (Pat. Rolls, Ed. 4, 1467-77, p. 298). Early in Edward 4's reign he received a grant of the keepership of the manor of Stretton-in-the-field, in cos. Leicester and Derby (see Rot. Parl. v. 602 b). In 1473 he was on the commission of the peace for Derbyshire (Pat. Rolls, 1467-77, p. 611). He, together with John Fitzherbert, was one of four commissioners appointed by Edward 4 on January 9, 1474, to take seisin of the forfeited estates of

George Duke of Clarence (ib. p. 428). He received as a reward a grant of the manor of Apedale, or Apdale, and of rents &c. in Uttekeestre, or Uttekhater, and Marchyngton-under-Nedewode, co. Stafford, forfeited by John Delvys, Esq., one of the Lancastrians who had fought at Tewkesbury (see Rot. Parl. vi. 145 a and 218 b). He was appointed lieutenant of the castle of Hammes in 1476, and continued to hold it after the accession of Richard 3 (J. Gairdner, 'L. and P. R. 3 and Hen. 7,' i. 15; Pat. Rolls, 1476-85, p. 499). Here he kept prisoner John de Vere, Earl of Oxford, who in 1473 had been captured at the siege of St. Michael's Mount, Cornwall, and ever since confined at Hammes (Pol. Verg., Camd. Soc. p. 158). Oxford persuaded Blount, about the end of 1484, to renounce allegiance to Richard 3 and go over with his garrison to the service of the Earl of Richmond. This was the first important defection after the crushing of Buckingham's

force wheroff the seid sir Robert and sir Jamez made awarde betwene the seid partiez in the maner and forme as in the seid answeere is specified, the whych awarde the seid John Fitzherbert on hys partie hath well and truely kepped and performyd.

Indorsed. Termino trinitatis anno xj^{mo}.³

This aunswer was geuen in by John Fitzherbert the xiiijth day of Juyn Anno quo supra.

rebellion in the autumn of 1488. 'When Henry saw therle he was ravisshyd with joy' (ib. p. 208). Blount having left the castle, together with his wife Elizabeth, to the care of the garrison during his absence with Earl Henry in Paris, it was besieged by the garrison of Calais under orders from Richard 3. Being relieved by the Earl of Oxford marching from Paris, terms were made and the garrison marched out free. Richard thought it wise to grant a pardon to Mrs. Blount and the garrison of seventy-four men whose names are set out in Pat. Roll, 1476-85, p. 526 (January 27, 1485). Blount himself was attainted, though the Act of attainder does not appear on the Rolls of Parliament, and the Act reversing the attainder, which passed in 1485, on the opening of Henry 7's first parliament, wrongly recites as the date of the original attainder 1 Ric. 3 (1484) (see Rot. Parl. vi. 274 a, and cf. ib. 246, 247). He was one of the commanders of the forces which landed with Richmond at Milford Haven, and was knighted by the earl upon that occasion (W. C. Metcalfe, 'Book of Knights,' p. 9). No sooner was Henry on the throne than Blount began to reap the reward of his services. In 1485 he was made steward of the Honour of Tutbury, in Staffordshire and Derbyshire, constable of the castle there, and master-forester of Nedewode and Duffeld Firth (Rot. Parl. vi. 362 b; W. Campbell, 'Mat.' i. 551). On March 2, 1486, he was reinstated in the lieutenancy of Hammes for a tenure of twelve years (W. Campbell, 'Mat.' i. 368). He received from the duchy of Lancaster, for seven years, a lease of the water-mills of Uttoxather, the pasturage called Uttoxather More and Monchede, co. Stafford, and of the herbage and pannage of the park of Shothill, co. Derby (November 3, 1487) (ib. ii. 202). On the death of his brother John Lord Mountjoy he was granted the wardship and marriage of the son (January 24, 1488) (ib. p. 230). A few days later (February 1, 1488) he received a

great grant of lands, comprising no fewer than five manors, with other lands, in Warwickshire, Leicestershire, and Northants, part of the forfeited estates of William Catesby, Humfrey Stafford, Richard Revell, and Roger Wake. This grant is expressed to be 'for services, rendered at great bodily risk and expense, in favouring the king's title to the crown' (ib. p. 235, 236). Another grant from the duchy of Lancaster (February 26, 1488) was a lease to farm for seven years the lordships of Hertyngton and Shene, Derbyshire, and of the herbage and pannage of nine parks in Staffordshire and four in Derbyshire (ib. pp. 258, 259). These grants indicate that he had taken to sheep-farming on a large scale. He was nominated by the duchy of Lancaster a special commissioner to inquire into disputes between its tenants and the abbot of Burton on November 10, 1488 (ib. p. 361), and, 'by way of reward' perhaps for these services, was paid twenty-five marks (16l. 13s. 4d.) in Easter term 1489 (ib. p. 437). He was also made chairman of a body of commissioners to inquire into the management of the lands of the duchy on July 10, 1489 (ib. pp. 462, 463). Upon the eve of Henry's setting out for an expedition against France in 1492 he was nominated one of the feoffees for executing the king's will (Rot. Parl. vi. 444). As lieutenant of Hammes he would probably accompany Henry to France, and his will, dated July 24, 1492, little more than two months before the army sailed, was perhaps made in view of the expedition. The army returned in the following winter. Blount's will was proved on May 24, 1493. He left his wife Elizabeth surviving, and nominated her and Robert Lytton, Esq., under-treasurer of England, his executors (Sir H. Nicolas, 'Test. Vet.' pp. 415). The record of his life shews that he was a qualified person to act as an arbitrator in this case.

³ Wednesday, June 8, to Wednesday, June 22, 1496.

н. This is the replicacion of John madeley to the answer of John Fitzharbert.

The seid John madeley seith as to the furst parte of his answer in avoidynge of the forfeiture of the jniunccion of xl li. that the same John Fitzharbert by his seid aunswer shewith no thyng in avoidynge of the seid forfeiture though it were so that his seid answer were true as it is nat for the seid John madeley seth that he neuur agreed nor assented to any such comunicacion as in his seid answer he hath alleged wherfor he praieth that the seid John Fitzherbert may be committed to ward vnto the tyme that he hath paid to our soueraigne lorde the kyng the same forfeiture of xl li. And where he surmiseth by his seid answer that the seid John madeley hath suyd bfore the Kynges Councell for the same mater thereto he seith that long tyme syth the seid jniunccion¹ the seid John Fitzherbert dyd breke the howse and close of the seid John madeley and dyd take a wey vj kyne and a good horse price of xij s. iiij d.² and the same bestes drove vnto Glaxston³ and there them kept in pownde vnto the tyme the seid horse was dede⁴ wheruppon the seid John madeley complayned to the kynges Councell of the seid wrongful takyng, and as to the last article of his seid answer the seid John madeley seith that at Stafford bfore that the Justice theire proceded to any assise the seid John madeley delyuered to the seid John Fitzharbert the kynges prive Seal as is afore reherced and he wold nat loke in it but cruelly said that he wold haue his assise⁵ to passe⁶ at that tyme⁶ and theruppon the Councel of the seid John madeley⁷ dyd plede diuerse and many barrez and theruppon on the morowe the Councel of the seid John Fitzharberd made ij titlez to al thous barrez and the Councel of the defendant dyd byde in lawe⁸ vppon one of them and

¹ Here follow the words 'that is to witte on Shroffe Sondag last passed at Even-song tyme' struck through.

² The pence interlined.

³ See A, p. 55, n. 6, supra.

⁴ See Introduction, p. cxv. The horse was not a valuable one—probably one used for farm work. The price of saddle horses was considerably higher. See J. E. T. Rogers, 'Hist. Ag. and Prices,' iv. 335-7.

⁵ I.e. the Assise of Novel Disseisin, Fitzherbert's complaint being that he had been disseised by the plaintiff. See C, p. 57, supra. He had a right to the assise because the plaintiff in this case asserted a title. 'Omnis disseysina est transgressio, sed non omnis transgressio est disseysina. Et si eo animo forte ingrediatur fundum

alienum non quod sibi usurpet tenementum vel iura, non facit disseysinam sed transgressionem. Sed quoniam incertum est quo animo hoc faciat, ideo querens sibi perquirat per assisam et quo casu querendum erit a iudice quo animo hoc fecerit, vtrum eo quod ius habeat in re vel non habeat . . . si per errorem vel ignorantiam (hoc fecerit) excusatur a disseysina quia est potius transgressio quam disseysina quam quidem si cognoverit emendet; et si dedixerit, vertitur assisa in iuratam ad inquirendum de transgressionem et per hoc stet vel cadat.' Bracton, f. 216 b.

⁶⁻⁶ Interlined.

⁷ Interlined.

⁸ 'A demurrer commeth of the Latine word demorari, to abide; and therefore he

then by the agrement of both the seid parties an issue was taken and one of the assise⁹ sworn¹⁰ and nat bfore as in his seid answer he hath allegged. All which matters the seid John madeley is redy to proue &c.

- i. This is the reioinder of John Fitzhebert¹ to the replicacion of John madeley.

The seid John Fitzherbert seyth that his seid ansuere is good & true in euery poynt as in the seid ansuere is alegged. Without that that the seid John Fitzherbert brake the house of the seid John madeley. And without that that the seid John Fitzherbert toke any horse from the seid John madeley which died in the pounde as the seid John madeley hath surmitted by his seid replicacion, all which maters he is redy to prove as this court will award and prayeth to be dismyssed out of the same with his resonable costes & charges for his wrongfull vexacion in that behalfe.

J.¹

John Fitzherbert sworn saith that this his ansuere is treu in euery point, and he saith that thagrement wherof in this within wreten ansuere is made mencion was made in the hous² Sir Robert litton vndertresorer sith the said Jniunccion geven and in the same terme that it was geven. The said John Fitzherbet² saith farthre that he after he had receyvid the priue seale as it is contaigned in the byll, noone othrewis pleityd his assise to thyssew but this. So it was he saith that after as he had receyvyd the priuy seale, his counsel and the counsell of the said John madeley were agreed that the Ray shold be affermyd³ and no more tobe doon at that time, and then Mr. Tremayle⁴ and the Chef Baron⁵ then there jugges said it was ageinst thordre of the Court without so were the matier were pleatyd to an Issew. Wherupon this deponent causid his Counsell to pleate farthre and or it was fullye pleatyd to an Issew the said John madeley was agreed to the same pleatyng, Jnsomuch that after thaire agrement

which demurreth in law is said, he that abideth in law: Moratur or demoratur in lege.' Coke upon Littleton, 71 b.

⁹ I.e. the jury. This document illustrates the ambiguities of the word 'assise,' on which see Littleton, 'Tenures,' § 234 (Coke upon Littleton, 154 b, 155 a).

¹⁰ For the meaning of the plea, which is very obscure, see Introd., pp. cxxi, cxxii.

¹ Sic.

¹ On dorse of F.

² Sic.

³ I have not found any other instance of this phrase. It appears to mean that 'challenge to the array' was waived.

⁴ See Goryng v. Northumberland, Earl of, p. 99, n. 8.

⁵ Sir William Hodie or Hody. Chief Baron of the Exchequer 1486-1522 (?). See 'Dict. Nat. Biog.'

vpon the same, euery of thaim pleatyd to other oone pleagh. And he saith that his mynd was not to go any fathre to the tryall of the said jssew but there to haue restyd though noo agrement had been had betwix thaim by cavse of the commaundment in the said priuy seale.

K.

Richard Gener of Quykkeshull in the Counte of Stafford a blynde man of the age of lxxx yeres and more sworn & ex [amined]¹ * 1

* 1 * 1 June the xith yere of the reigne of kyng henry the vijth 2 byfore John Abbott of Dieulieueres³ John Abbott of Crokesden⁴ & [George Abbott of Rowcetur⁵] sayth that he was born vppon the same Grounde in Quykkeshull now in varians where as John madeley now dwellyth and * 1 it was on John Okers & Kateryn his wyff in the ryght of the said Kateryn and sayth his fader was tenaunt to John Verney⁶ hir fader & after to the said John Oker & Kateryn and then the said John and Kateryn dwellyd vppon the same grownd by the space of iij yeres & after they removed to mapulton⁷ & ther the said John Oker⁸ died and the said Kateryn was weddyd to on Symon hanley of hanley in Worcester shyr⁹ and then the fader of the said Richard Gener was bayly to the said Symon & Kateryn & payd theym yerely xx s. many yeres vnto the tyme that his said fader brought one Thomas madeley to the said Symon & Kateryn to take it of them and then the said Thomas madeley toke it paying xiiij s. iiij d. yerely & payd no more by cause he promysed her to geve her more la[nd]¹

* 1 * 1 on trust therof the said Symon & Kateryn delyuerd theyr evidens to the said Thomas madeley and the said Thomas madel[ey]¹ * 1 * 1 no more land butt he payd his rent alway and then the said Thomas madeley died & John madeley his son occupied * 1 * 1 vnto the tyme that on

¹ Parchment torn.

² 1496.

³ A Cistercian abbey founded in 1214 at Leek in Staffordshire by Randal de Blundeville, Earl of Chester. Dugdale notes an abbot, John (surname unknown), here in 1438, the next on his list being Thomas, in 1499. It was one of the greater monasteries, its income at the Dissolution being 227*l.* 5*s.* (Dugdale, 'Monast. Angl.' v. 626). It lies about twelve miles north-west of Quixhill.

⁴ See C, p. 58, n. 7, *supra*.

⁵ An abbey of Black Canons founded by Richard Bacon in 1146 at Rowcester, Roucester, or Rocettur, Staffordshire, about a mile and a half south of Quixhill. The name of this abbot is altogether unknown

to Dugdale, 'Monast.' vi. 410. It was one of the lesser houses, its net revenue being 100*l.* a year (*ib.*). It held land in Quickwill.' *Ib.*

⁶ See D, p. 59, n. 1, *supra*.

⁷ In Derbyshire, on the other side of the Dove, about six miles N.N.E. of Quixhill.

⁸ A place name, appearing in the form of Ocoure, for Oakover, in a plea of 1257 (Staffordshire Hist. Coll. [1883], iv. 135). The seat of the family was at Oakover. See 'Visitation of Staffordshire' (1614), *ib.* v. ii. 302 &c.

⁹ An ancient family at Upper Hanley. See T. R. Nash, 'Hist. of Worcestershire' (1781), i. 365.

Rauff Fitzherbert bowght it of the said Kateryn and the said Richard Gener was present when possession was delyuerd to the said Rauff by one henry Clerk her attourney by the same token that ther was thyder brought a white Wodecok¹⁰ the which was send to my lady hastynge that now is.¹¹

Richard John of thage of lx yeres & more examined the said day & yer byfore the said Abbottes saith that he dwellyd vpon the grownd in Quykkeshull wher as John madeley now dwellyth with on William his vnle & att that tyme the said William John payd the rent thêrof to on Thomas Gener fader to the said Richard Gener that then was bayly to the said Kateryn. In Wittnesse wherof and for the more credens to be hadd in the same the forsaid John Abbott of Dieulieucre John Abbott of Crokesden & George Abbott of Rowcetur to this present wrytyng haue sette theyr seales¹² the day & yer ab[ove written].

LEAD MINERS OF YORKSHIRE v. THE MERCHANTS OF YORK.¹

To the kyng our souereyn lord

1499 Shewith humbly vnto your highnes your poer sugettes and continuall oratours all the myners and makers of lede within the countie of York that where it was late ordynyd and enactyd in your most high court of parlement holden at Westminster the [seventh]² yeare of your most noble reigne by the Autorite of the same such weghtes and mesures of brasse as your grace hadd then causid to be made accordyng and agreable vnto certen old weghtes & mesurs of long tyme remaynyng in your exchequer shuld be oonly vsid and occupied and that noon other weghtes ne mesures except such as were agreable and of lyk weght and measure with the same should be vsid within this your Realme

¹⁰ Not, apparently, by way of livery of seisin. The incident marks the occasion in witness's memory. Of woodcocks Morris says: 'White individuals have been met with, and cream-coloured ones.' The Rev. Gilbert White, of Selborne, mentions a white woodcock &c. F. O. Morris, 'Hist. of British Birds' (1891), iv. 240.

¹¹ Perhaps Mary, Lady Hastings and Hungerford, wife of Sir Edward Hastings, Lord Hastings de Hastings, lord of the manor of Dronfield, Derbyshire, about thirty miles N.E. of Quixhill (Inq. p. m. Henry 7, 424). Cf. p. 29, n. 21, *supra*. Lady Hastings had numerous interests in Derbyshire (see

S.P. Dom. Henry 8, i. 1372). The phrase 'that now is' in the mouth of an old man of 80 recalls that William Lord Hastings, the father, had been beheaded by Richard 3 in 1483. See G. E. C., 'Complete Peerage' (1892), iv. 186.

¹² The seals, for which the three parchment slips remain, have been removed.

¹ S.C.P. Hen. 8, Bundle 18, No. 289. Wrongly sorted: should be Hen. 7. A charred fragment. No other document in the case found.

² Illegible in MS., should be 'seventh' (1491). 'An Acte for Waighthes and Measures,' 7 Hen. 7, c. 3.

and by the same autorite it was enactyd that oon of euery of the said weghtes and mesurs shuld be conveyd vnto euery shire town within this your Realme to thentent there to be vsid and occuppyed & noon other accordyng vnto the said ordynaunce by force where of oon of euery of the said weghtes & mesure were conveyd vnto the citie of York³ and there remayneth in there Gyld hall Which notwithstanding so it is now good & gracious lord that the said marchauntes will nott by of your said oratours there said lead by your said weghtes but vsis at all tymes after that your said oratours be agreid with the said marchauntes what they shuld haue for A foder⁴ your said oratours trustyng verly to be vsid with the same weghtes to wee the said leed after there pleasour and for there synguler lucour Wee the said leed with certen weghtes made by the said marchauntes withoute eny auctorite which excedith your said weghtes in euery D^c weight xxxⁱⁱ or xl li. or more⁵ and yit the said marchauntes not therwith contented lyeth in the scale a by weght of vij li. to euery gret peece of leed which they will in no wise rakyn in part of the foder by which vntrue and feynyd weghtes and dyuers misdemeanynges of the weyer & keper of the crayn your said poor oratours er gretly inpouerysshed and almost vtterly undeyn. And more ouer wher withoute tyme of mynd there was neuer payid nor vsid to be payd more then ij d. ob. for weyng and drawyng vp of a foder of leed at the said crayn So it is nowe good and gracious lord that the yere now last past oone John Metkalf⁶ beyng mayre of the said cite the said mayre to geder with the comen Councell of the same cite of there cuvetus myndes and without eny lawfull autorite ordayned and enacted among theym selff that your said Oratours shall pay for euery foder of leed by theym brought to the said cite and weid at the said crane at all tymes thirafter xiiij d. whan the saide

³ The evidence of this survives in R.O. Miscell. of Exchequer $\frac{9}{16}$, from which it appears that the standard weights and measures, including half a cwt. and its fractions, were delivered to Marmaduke Constable and William Gascoyne, knights of the shire, for the county and city of York on Dec. 8, 1495.

⁴ Or 'fother,' generally $19\frac{1}{2}$ cwt. See J. E. T. Rogers, 'Hist. Agr. and Prices,' i. 168. But G. Malynes, 'Lex Mercatoria,' 269 (Lond. 1622), speaks of 'a fother of lead of twentie hundreth.' See J. A. H. Murray, 'Eng. Dict.' s.v.

⁵ See Introd., p. el.

⁶ John Metkalf, or Metcalf, sheriff of York, 1494. An alderman of York in 1497. 'Test. Ebor.' (Surtees Soc. 1869), iv. 121.

Lord Mayor of York in 1498. F. Drake, 'Eboracum' (1736), p. 363. Apparently a dealer in plate (see 'Test. Ebor.' p. 300). Some time before 1509 he seems to have been compelled, by financial embarrassments, to pledge his gold ring, 'Test. Ebor.' (1884) v. 5 n. He was, presumably, a man of literary tastes, for Brian Wensdail, notary and procurator of the Court of York, bequeathed to him, in 1519, 'a litill buyk, viz. decisions of Root' (ib. p. 100). He was also a legatee of 40s. under the will of John Marshall, merchant, of York, dated Dec. 15, 1524 (ib. 193). His will was proved Jan. 27, 1530, as of the parish of St. Mich. Owse-bridgend, York, merchand. Index of Wills in the York Registry (Yorkshire Archæol. Assoc. 1891), vol. xi. p. 119.

mayre and bredren of the said cite hath euer after sett decre ^{* 7} said
^{* 8} levyd contrary Right and good conciens wherevpon your
said poer Orators well seyng and perceyueng aswell the said onlawfull
weghtes as the said onlawfull decre indendyd and of * * * * *^{* 9}
past downe your streme of ows forby the said cite with there said leed
vnto your town of Kyngeston upon Hull intendency there to haue
vttered and sold the same⁹ which as soon as⁹ the said mayre & his
brethren⁹ perceived withoute eny lawfull autorite and to thentent to
compel your said sugettes to vtter ^{* 7} ^{* 8} ^{* 8} ^{* 8} weghte
* * * * *^{* 7} would not⁹ suffre them to passe down
your seid streme to such tyme⁹ as they had paid vnto the said mar-
chauntes ^{* 7} the foder xiiij d.¹⁰

HEWYT AND OTHERS & EXCITER, MAYOR &c. OF, v.
LONDON, MAYOR &c. OF.¹

A. To the right reuerent father yn god the bisshop
of Sarisbury and the keper of the Kynges
brode Seail²

1500 Mekely besechith your gode and gracious lordship your daily
Oratours Richard Hewyt³ John Gumby⁴ and John Skrevener
marchawntes of the Citie of Exciter, That where as your seid Oratours
came to The Citie of London this wike with there marchauntyes as
thei have vsed to doo yn tymes past, And as thei were comyng
towards the seid Citie of London at Ludgate, iiij seruauentes of John
Hawis⁵ and William Stede⁶ nowe beyng Shiryffes of the seid Citie of

⁷ MS. torn.

⁸ MS. obliterated.

⁹⁻⁹ MS. indecipherable.

¹⁰ MS. here much torn and injured by water.

¹ S.C.P. Hen. 7, No. 78.

² Henry Deane, translated from Bangor to Salisbury, Dec. 7, 1499 (Le Neve 'Fasti,' ii. 604); Keeper of the Great Seal, October 13, 1500; Abp. of Canterbury, April 26, 1501; d. 1503. 'Dict. Nat. Biog.'

³ Richard Hewyt, bailiff and steward of the city of Exeter, 1497. R. Izacke, 'Antiquities of Exeter' (2nd ed. 1724), p. 98; senior bailiff and receiver of the city, 1502 (ib. p. 104); mayor, 1506 (ib. p. 105) and 1513 (ib. p. 107). Will proved (of St. Lawrence, Exeter) 1519. J. C. C. Smith, Index, i. 271.

⁴ John Gumby, senior bailiff and receiver of the city, 1504. Izacke, p. 105.

⁵ Sheriffs in 1501. J. Stow, 'Survey,' ed. J. Strype, 6th ed. 1755, ii. p. 224. Neither became mayor.

John Hawes, mercer, one of a number who on May 4, 1480, received a general pardon from Edward 4 for debts &c. due to him, apparently in connexion with customs duties ('Pat. Rolls,' 20 Ed. 4, p. 243). There appear to have been more persons than one of the name. The will of John Hawes, or Hawe, of St. Thomas of Acon, London; Sion, Chelcheth, Middlesex, and Thadyngton, Derby, was proved in 1517. J. C. C. Smith, Index, i. 261.

⁶ Grocer and alderman, probably dead in 1507. B. Heath, 'Hist. of the Grocers' Company' (3rd ed., 1869), p. 425). In 1486

London, and by there commaundement toke of your seid Oratours xv s. yn golde, and v peces of lynyn clothe callid Doglas,⁷ claymyng of theym to have the seid godes vnto the tyme that your seid Oratours hadde agreed with the seid Shiriffes⁸ for a wrongfull⁹ Custom, whiche thei clayme, called Skavage,¹⁰ Where that your seid Oratours nor none of the seid Citie of Exciter neuer paied no such Customes,¹¹ Wherefore it may please your gode lordship the premyssys tenderly consydered to commaunde your seriaunt of Armes¹² to goe to the seid Shiriffes, commaundyng theym to delyuer your seid Oratours there seid godes, Orels to appere before your seid lordship to morowe yn the sterre chambre, to aunswere to the premissys accordyng to right and godd consciens. And thus for the love of god and yn the way of cheritie.

B. To the kyng oure souereigne Lord &
his most honourable Counsell

In most humble wise besechith youre highnes youre daily Oratours the maier Citezeyns & burgesis of youre Citie of Exiter, That where

he contributed four marks (2*l.* 13*s.* 4*d.*) to Henry 7's forced loan. W. Campbell, 'Materials,' ii. p. 95.

A person of the name of William Stede, or Steed, at this time owned a mansion at Harrietsham, Kent. E. Hasted, 'Hist. of Kent,' ii. p. 457, n. 1.

⁷ Also 'Dowlas' &c., so called from Daoules, or Doulas, S.E. of Brest in Brittany; a coarse kind of linen cloth. J. A. H. Murray, 'Eng. Dict.,' s.v. Dowlas.

⁸ 'De la quelle custume (Scavage) la moite partient as Viscountz, et lautre moite as hostes en les mesouns des queux les marchauntz sount herbergez, qi amesnent marchaundises dount Scawenge vient; meis nepurquant qe yceaux hostes soient de la fraunchise de la citee' (Liber Albus [Rolls Series, 1859], edited by H. T. Riley), i. 223.

⁹ The above quotation and the list of articles on which scavage was leviable on pp. 223-5 shew that it was intended as a duty on foreign importers. See also C, p. 74, n. 1, *infra*.

¹⁰ Scavage, schauage, or shewage. 'Fait assavoir qe "Scawenge" est dit come "demonstraunce" pur ceo qe y covient qe marchauntz demonstrent as Viscountz marchaundises des queux deit estre pris custume' (Liber Albus, *supra cit.*). The scavage on the load of canvas was 12*d.* (ib. 225). The scavage of the City of London had been granted by Henry 7 immediately after his accession (October 26, 1485) to Humfrey Rayneford, gentleman, for life

(W. Campbell, 'Mat.' i. p. 100). This person died in 1497 (J. C. C. Smith, 'Index of Wills,' ii. p. 439). This grant was probably in derogation of the franchises of the city, and the city had perhaps resumed the appointment, the nomination to which it appears to have previously enjoyed, since in 1402 the sheriffs farmed it out to a private speculator. 'Rot. Parl. iii. 491, a, b.

¹¹ Exeter was a daughter of the city of London (C. Gross, 'The Gild Merchant' [1890], i. p. 247). The charter of Edward 1 recites that of Henry 2. 'Et sciatis eos (cives Exoniæ) habere consuetudines Londoniarum; et ita testati sunt ipsi Barones Londoniarum' (Liber Customarum [Rolls Series], 1860, edited by H. T. Riley, p. 667). The charter of John ran: 'Volumus etiam et firmiter præcipimus, et hac præsentī Charta nostra confirmamus, quod iidem cives nostri sint quieti de theolonio, passagio et pontagio, tam in terris quam in aquis, tam in feriis quam in mercatis, de omni sæculari servitio et consuetudine per omnes terras nostras, citra mare et ultra, et per omnem potestatem nostram, quæ Rex Ricardus frater noster eis concessit, quantum ad Regem pertinet (ib. p. 668). On October 12, 1486, Henry 7 granted a general *Inspeximus* and Confirmation of previous charters from Henry 2 to Edward 4 (G. Oliver, 'Hist. of Exeter' [1861], p. 285. See further *Introd.*, p. cxlii.

¹² See p. 247, n. 9, and *Introd.*, p. xxvi.

youre seid Citie is and of the tyme that no mynde is to the contrarie hath been an auncient Citie & burgh and is & of all the same tyme hath been auncien demeane¹ And the maier & Citizens of the seid Citie and the Burgesis of the same haue & by all the same tyme haue had diuers preuileges Frauncheses and liberties aswell by the grauntes of your noble progenitours Kynges of Englund as oderwise, And amonges oder preuileges Frauncheses and liberties haue been & vsed to be & goo quite free & discharged in your Citie of London & all oder Cities & burghes within youre realme of Englund of all maner of toll & Shewage oderwise called Skawage amonges oder thynges,² So it is most gracious souereign lord that the maier Sheriffes & Cominaltie of youre Citie of London nowe of late wrongfully & contrarie to the preuileges Frauncheses & liberties aforeseid of youre seid Citie of Exceter haue claymed to haue Shewage odirwise called Skawage of youre seid Oratours in youre seid Citie of London and as diuers of youre seid Oratours that is to sey Richard Hewyt John Gonby & John Scryuener were lately commyng towards youre seid Citie of London at Ludgate iiij seruauantes of John Hawys and William Stede nowe beyng Sheriffes of the seid Citie of London & by there commaundement toke of youre seid Oratours xv s. in gold and v peces in lynyn cloth called Doglas claymyng of them to haue the seid goodes vnto the tyme that youre seid Oratours had agreed with the seid Sheriffes for a wrongfull custome whiche they clayme called Skawage where that youre seid Oratours Citezeyns ne burgezes of youre seid Citie of

¹ 'In the year 1086 the king had 285 houses in Exeter paying custom' (E. A. Freeman, *Exeter* [1895], p. 43). But Domesday does not speak of Exeter as a whole as Terra Regis. See Domesday Book (ed. H. Ellis, 1816), vol. iii. (Index Locorum, 'Excestre,' p. 249). This is not conclusive proof that it was not Ancient Demesne. Cf. Y. B. 49 Ed. 3, pl. 8 (Fitzherbert, *Abr. Monstraverunt*, 4). 'Touts les demesnes qui fuerent en la maine Seint E. sont aunciens demesne, mesque ils fuerent aliens a estraunge mains quant le liver de Domesday se fist, come il avient del manor de Totenham,' &c. (P. Vinogradoff, 'Villainage in England' [1892], p. 90. Cf. P. and M. *Hist. Eng. Law*, i. 382, n. 1). The claim of Ancient Demesne was constantly being advanced. The *Placitorum Abbreviatio* for the first twenty years of Edward 1's reign gives twenty cases. But in only two of these did the claimants get a judgement (P. and M., *Hist. Eng. Law*, i. 361, n. 2). Boroughs especially claimed to be the king's demesne. F. W. Maitland,

'Township and Borough' (1898), p. 72.

² Ancient demesne was the Terra Regis Edwardi of Domesday. The theory being that land in Ancient Demesne furnished the king's household with provisions, it was exempt from all payment of toll (E. Coke, 2 *Inst.* 542). Cf. the claims of the inhabitants of Leystoft, Kyrkeley, and Pakefyld, Suffolk, 'by reson wherof' (i.e. being in ancient demesne) 'they owe to be quytte of all maner of Tollys Customes & other exaccions for the sale of all their seid wares & marchaundyses in all marketys & faiers within this Realme of Ingland' (*Jettour and others v. Hull, Mayor of. Select Cases from the Court of Requests, Selden Soc.* [1898], p. 37). A royal grant of 1488 (November 20) to the town of Beeston recites, 'Whereas the men & tenants of the ancient demesne of the crown of England are quit of toll, stallage, chiminage, &c., &c.' (W. Campbell, 'Mat.' ii. 365). See also *Select Cases in the Court of Requests*, p. 39, n. 3, for the writ on behalf of Tenants in Ancient Demesne.

Exceter neuer paid eny suche customes ne oder like contrarie to the liberties & priuilege of the same youre Citie of Exceter to there gret cost trouble vexacion & damages and to the grete wrong inpouerisshyng & vndoyng of youre seid Citie of Exceter if it shuld so contynewe without due reformation, Please it youre highnes the premisses graciously considred to commaunde the same maire & Sheriffes to appere before youre highnes & youre Counsell to answer to the premisses & to abide & obey suche order & direccion in the premysses as shall accord with right & good consciens And youre seid besechers shall contynuelly pray to God for the preseruacion of youre most noble & roiall astate long prosperiously to endure.

*Indorsed.*³ Termino hillarii anno xvj^o ⁴
 Secunda billa. Ciuitas Exoniensis contra London.
 Exon contra London.
 Excestre contra London.
 London et Exeter.

- c. This is thanswer of the mayour and cominaltie of the Citie of London to the byll of the mayour citizens and Burgeses of the cite of excetter.

The maire and cominaltie of the sayd Citie of London for their aunswere to the said bel sayen That the sayd cite of london is the maist auneyent cite of this realme of Englonde and that within the same cite of london of auneyent tyme when the Shirefweke of the said Citie of london was in thandes and possession of dyuerce auncient and noble kinges of this Realme of Englonde the same noble kynges were than and before that tyme oute of mynde possessed by theyre Offycers Shireffes of the same cite of london of the said custume callid Scavage and haue vsed to haue and take the same custume called Scavage by the same Shireffes perteynyng to the same Shirefwek of london by all the same tyme as of oone of the mooste pryncipall Custumes perteynyng of right to the said Shirefwyke of london. The which custume called Scavage by all the same tyme hauing been taken and vsed to be taken of al marchaundises brought from by yonde the see vnder the fourme folowyng that is to say Whansouer any marchaundyses brought from beyonde the see of any marchauntes haue come by water or by lande ¹ within the liberties of

³ Apparently the first and second indorsements in the same hand, the third and fourth in another hand, and the fifth in a seventeenth-century hand.

⁴ January 23–February 12, 1500.

¹ Cf. A, p. 72, nn. 8, 9, supra. In the case of the merchants of Genoa, who petitioned parliament against Scavage in 1402,

the said Citie of london there to be solde that the said Shyreff or Shyreffes of the said Citie for the tyme beyng or theyre deputyes haue taken the said Custume called Scavage that is to say vpon the Shewyng of the said marchaundises byfore they be solde a certeyn somme of money after the rate of the said marchaundises the certente and quantiete of which sommes of money so vsed to be taken apperyth aswell by old bokes remaynyng within the same Citie of london of recorde as in the kynges Eschequer and also for non payment of the said Custume called Scavage the said Shyreff or Shyreffes or there deputyes by all the same tyme haue vsed to sease the same marchaundyses and theym to retheyne till they were sattysfied of the same custume² and afterward the ryght noble kyng John beyng possessed of the said Shirefwyk of london and of the said Custume called Scavage therto belongyng in like fourme as his noble progenitours oute of tyme of mynde byfore that were by his chartre and lettre patentes amonges other diuerce libertyes and Fraunchises graunted to the said citezeins of the Citie of london the said Shyrefwyk of london and of the countie of middlesex with almaner custumes and liberties and other profytz to the same Shyrefwyk and euery of theym in any wyse belongyng or perteynyng,³ whereof the same Custume called Scavage in maner and fourme aforesayd taken and vsed to be taken than and befor that from the tyme aforsayd than was and yet is parcell⁴ and that the same citezeins shuld chose yeerly two citezeins of theym self to be shireffes of the said citie of london and Countie of middilsex for an hoole yere To haue and to holde the same Shirefwikes with all Custumes and profytz to theym or any of theym belongyng to the forsaid citezeins of london and there successours for euermore yeldyng and payng therfor yierly to the said noble kyng and his heires kynges of Englonde ecc li. and also the ryght noble kyng Edward the

their complaint was that they had been compelled to unlade their goods at Southampton for examination by the Customers, and having paid customs there they were also mulcted in tolls by the town officers for having discharged their merchandise on land. When they reached London the sheriffs' farmer in his turn demanded 'la custume appelle Schawage,' although it was only due for merchandise directly imported into London from over sea. These exactions, they urged, were driving merchants from England. The king in reply observed that his charter confirming the privileges of the City of London made no mention of Scavage, and forbade its exaction from the petitioners upon their pro-

duction of letters testimonial from the Customers and officials of Southampton showing that they had paid their dues there. Rot. Parl. iii. 491.

² This seizure actually took place in the above case, and was one of the grounds of complaint. Ibid.

³ This was the third charter of King John, dated July 5, 1199, whereby he confirmed his grant to the citizens of London of the sheriffwicks of London and Middlesex. W. de G. Birch, 'Historical Charters &c. of London' (1887), p. 15.

⁴ The next line, about ten inches in length, is erased and the first four inches of the line following it.

iiij^{de} by his lettres patentes⁵ graunted to the sayd citezeins of london that they shuld be encorporat by the name of maire and cominaltie of the cite of london as by the same lettres patentes more pleynty it apperyth.⁶ The which graunteis liberties Custumes and Fraunchises be ratefied and confirmed by auctoryte⁷ of diuers parliamentes by reason wherof the mayre and cominaltie of the said Citie of london haue and ben seased yerely of the said Custume called Scavage and haue vsed yerely and yet vse to take the same Custume by the Shireffes of the said Citie of london for the tyme beyng as well of the said Citezeins of Exceiter bryngyng marchaundyses from beyonde the see to the said Citie to be sold as of all other marchauntes as a Custume dewe⁷ and perteynyng to the same Shirefwyk of london in maner & fourme afore reherced and also that the same Shireffes of the said Citie of london for the tyme beyng oute of tyme of mynde yerely haue vsed and yet vse if the same Custume called Scavage were vnpayd to sease the said marchaundises of the said Citezens of Exceter and all oders soe brought in to the said Citie of london there to be solde and the same marchaundyses to reteyne till they be satisfied of the said somme as a custume due and perteynyng to the same Shirefwyk of and in the maner and forme aforespecified and for asmich as the said Richard Hewit John Gomby and John Scryuener brought in to the said Citie of london from beyonde the see there to be sold [xiiij]⁸ pakkes of lynen cloth for the which xiiij pakkes of linen cloth the said custume called Scavage ought to be payde and the which somme of the said custume called Scavage of and for the said linnen cloth in the said pakkes extendyth after the Rate and old custume in the said old bokes to the somme of xiiij s. due whiche somme of xiiij s. of and for the said linen cloth in the said pakkes⁹ John Hawes and William Stede than and yet beyng Shireffes of the same Citie of london demaunded of the said Richard Hewet John Gomby and John Scryuener as dew and perteynyng to their said office of Shyrefwek of london The which somme of xiiij s. to the same

⁵ A small + is in the margin against the line beginning 'patentes' and ending 'cite of.'

⁶ This seems to refer to the first charter of Edward 3, dated March 6, 1327, which 'for the good and laudable service which our beloved mayor, aldermen, and commonalty of the said city heretofore have often done us' confirms the city's liberties. This charter, however, does not formally incorporate the citizens under the above title, and in the Great Quo Warranto case of 1681-83 the City did not venture to rest

its incorporation on any charter but prescribed (Howell's State Trials [1810], viii. 1041). In the charter of Henry 3, dated February 26, 1247, the style is 'mayor and commonalty.' The grant by John of the sheriffwicks at 300l. a year is set out at length in the charter of 1327. See Birch, pp. 32, 53.

⁷ MS. much faded; reading doubtful.

⁸ Indecipherable.

⁹ This charge is justified by Liber Albus, p. 225: 'La charge (pack) de lienge teile, xij d.'

John Hawes and William Stede to pay the said Richard Hewit John ¹⁰ John Scryvener than vtterly refused and yet refuse and the said which somme of xij s. to the said John Hawes and William Stede they haue not yet payd, Wherefore the said John Hawes and William Stede than as Shyreffes of the said Citie of london seased the said xv s. in gold and v peces of lynnyn cloth callid douglass and theym yet reteyneth for non payment of the said somme of xij s. of and for the said custume called Scavage aforsaid as lefull was to theym to doo Withoute that that the said mayre citezeins and Burgeses of the said Citie of Exceiter and theyre predecessours from the tyme of noe mynde haue hadde vsed & enyoyed or ought to vse or to enioye any such libertie or fredome to convey theyre marchaundyses to the said Citie of london there to be solde freely withoute paying of the said custume called Scavage in maner and fourme as the said mayre Citezens and burgesses by theyr said bil of compleynt haue surmytted And withoute that the said mayre Citezens and Burgesys haue or euer had or vsed any pryvillage fraunchise or libertie or grauntes of the progenitours of our soveraine lorde the kyng or otherwise to be or goo quite free or discharged in the said Citie of london of all maner of Toll and Scavayge as by the said bill is surmytteid all which maters and euery of theym the said mayre and cominaltie of the said Citie of london wilbe redy to verifie as shalbe thought by your highness or by the lordes of your most honourable Councell and prayen that theye maye for theyre liberties and custumes aforsayd accordyng * 8 their predecessours the maire and cominaltie of the same Citie of london before haue hadde and enyoyed * 8 * 8 haue ¹¹ been alowed them ¹¹ by your noble progenitours in tyme past. And they shall daylye pray to almighty God for the preseruacion of your most noble & roiall astate.

Indorsed. The Mayour Burgesses &
Commonalty of Excestre
versus
Le Maiour & Sheriffes
of London.

In another hand. Excestre.

¹⁰ 'Gomby' omitted.

¹¹ Reading doubtful; MS. much defaced.

- d. The Replicacion of the Maier Citizens and Burgences of the Citie of Excester to the answer of the Maier & Cominaltie of the Citie of London.

The seid Maier Citezens & Burgences of the seid Citie of Excester seyn that the seid answer is vncerteyn & insufficient and no perfite answer to the seid bill And they seyn as they haue seid in ther seid bill, That the seid Citie of Excester is & of the tyme that no mynd is the contrarie hath been an auncient Citie & burgh and auncion demeyne And by reson therof if the maire citezens & burgences of the seid Citie of Excester had non oder graunte libertie ne priuylage they ought of right to be & goe quyte free & discharged in the seid Citie of london & in all oder Citez & burgh¹ within the Realme of Englund of all maner toll skavage & oder like charges by reson that the seid Citie of Excester is & out of tyme of mynd hath been auncien demeyne whiche is not by the seid Maier & Cominaltie of the seid Citie of london denied And ouer that the seid Maier Citezens & Burgences of the seid Citie of Excester seyn in euery thyng as they haue seid in ther seid bill of Compleynt. Withoute that the seid Kyng John or the kynges of Englund before tyme of mynd wer possessed by ther officers Sheriffes of london or oderwise of eny suche custome called skavage of the Maier Citezens or burgences of the seid Citie of Excester or vsed to haue or take eny suche custome of the Citezens & burgences of the seid Citie of Excester by the same Sheriffes or oder persones perteynyng to the Sherifwike or oderwise, And withoute that that the seid Custome called Skavage by all the same tyme hath been taken & vsed to be taken of all merchaundises brought from beyond the See by all merchauntes by water & by lond within the libertiez of the seid Citie of London there to be sold as it is surmytted by the seid answer, And withoute that that it apperith in the bokes remaynyng in the seid Citie or the recordes in the kynges Escheker that the kynges of Englund or the Sheriffes of the seid Citie of London or the seid Maier & cominaltie of London haue vsed to take Skavage of all merchaundisez brought by water & by lond to the seid Citie of London ther to be sold, or that the certentie or quantite of the sommes of money so vsed to be takyn appere in the seid bokes of London or in the recordes of the seid Eschekyr, or that the Sheriffes of the seid Citie of London or ther deputez by all the seid tyme haue vsed to sease & reteyne eny suche marchaundisez till they wer satisfied of the seid pretended custome or that they euer vsed to

¹ Sic.

sease or reteyne eny merchaundisez of eny of the Citezens & burgences of the seid Citie of Excester for eny suche pretendid Custome or vsed to haue of them eny suche Custome. And without that that the seid Custome called Skavage belongith or at eny tyme belonged to the seid Sherifwik or is & hath been parcell of the seid Sherifwike oute of tyme of mynde as is surmytted by the seid answer And without that that the maier & Cominaltie of the seid Citie of london haue been seased yerely & vsed yerely to take the seid pretendid Custome by the Sheriffes of the seid Citie of london for the tyme beyng as well of the Citezens of Excester as of oder marchauntes, or that the Sheriffes of the seid Citie of london out of tyme of mynde haue vsed to haue the marchaundices of the Citezens or burgences of Excester or eny of them ² & to resceyue ³ them ² till they were paid of the seid pretended Custome in maner & fourme as is surmytted by the seid answer, And withoute that that the seid maier and Cominaltie of the seid Citie of london euer had or ought to haue or wer paid of eny suche Custome of the seid Citezens & burgences of Excester but of late whiche was by wrongfull compulsion, And withoute that that the seid maier & Cominaltie of the seid Citie of london by the Sheriffes of the seid Citie for the tyme beyng ² euer seased ² or toke eny marchaundisez of the seid Citezens or burgensez of Excester for the seid pretended Custom vnto nowe of late that the seid maier & Cominaltie by the Sheriffes of the seid Citie of london wrongfully & with force toke & seased diuers merchaundisez of the seid Citezens of Excester and also the seid xv s. contrarie to the lawe right & good consciens. All whiche maters the seid maier Citezens & burgences of the seid Citie of Excester been redy to proue as this Courte will award, and prayen as they haue praied in ther seid bill.

- E. The Reioyndre of the maire Shirifes and Cominaltie of the Cite of london to the Replicacon of the maire Citezins & Burgesses of Excestre.

The saide maire Shirifes and Cominaltie sayen that their aunswer is certen and sufficient and the said Replicacon insufficient and vncerten to be reioyned vnto and sayen in all thinges as thei haue saide in their aunswere. Without that that the said Cite of Excestre is or out of tyme of mynde hath been auncien demeane, And without that that tenauntes of Auncien Demean aught to be discharged of the said Custome called Scavage in maner and fourme as

²⁻² Interlined.

³ Qu. for reteyne.

in the said Replicacon is surmyttid. All which matiers the saide maire Shirifes and Cominaltie been redy to prove as this Courte wille awarde and prayen as thei haue prayed by theire saide aunswer.

F. These ben the deposicions of diuers Citezens and inhabitantz of the Cite Excestre had and made beffore William Sylk¹ John Carell² and John Broke³ by vertue of the Kynges Writt of dedimus potestatem⁴ to them directed.

John Guscote⁵ off the age of lx yere one of the Citezens and inhabitantes of the seid Cite of Excestre Sworne and examyned sayth and deposith that he hath vsed to send lynnyn cloth to London by the Carriours from the xij yere of the rayn of Kyng Edwarde the iiijth vnto the xxij yere of his Raigne⁶ and in all that tyme he neuer paied Skauage ne other Custome ne none was asked hym saue onse a seruauant of one⁷ Cotyn⁸ came to the Sturre⁹ in Bredstre¹⁰ in London and asked hym Scavage, and therupon one horwyll beyng of

¹ William Sylk, or Sylke, educated at the University of Oxford, where he supplicated for the degree of B.C.L. May 26, 1463 (C. W. Boase, 'Register' [1885], i. 36). Possibly a son of William Sylk, of Bishop's Lynn, Norfolk (see Pat. Rolls, Ed. 4, 1468, p. 73). Archdeacon of Cornwall in 1491 (Le Neve, 'Fasti' [1854], i. 399); prebendary of Exeter April 15, 1499 (ib. 411); will proved 1508. J. C. C. Smith, 'Index,' ii. 515.

² John Carell, or Caryll, serjeant-at-law, eldest son and heir of John Caryll, of Warnham, Sussex, by Griselda, daughter of Henry Belknap, cousin and heir to Sir Ralph Boteler, Lord Sudley, died July 11, 1488. John Caryll, the son, was a member of the Inner Temple. He was made serjeant-at-law in 1505, and king's serjeant in 1514. He was a Bencher of the Inner Temple in 1508 ('Inner Temple Records,' ed. F. A. Inderwick (1896), i. 12). He married (1) Margaret, daughter of — Ellenbrige, or Dalynbridge; (2) Jane, daughter and co-heir of Sir Robert Read, Chief Justice of the Common Pleas. Caryll died in 1523, and by his will desired to be buried by the side of his first wife in Warnham Church. By his first wife he left a son, Thomas, who inherited Warnham; by his second a son, John, who became a member of the Inner Temple on July 9, 1522 (ib. 70; D. G. C. Elwes and C. J. Robinson, 'Castles &c. of Western Sussex' [1879], p. 253). His will was proved in 1523 as of Warnham, Sussex,

Hants, Kent, and Surrey (J. C. C. Smith, 'Index,' i. 108). His estate in Surrey was at Tangle. See O. Manning, and W. Bray, 'Hist. of Surrey' (1809), ii. 109; Nicolas, 'Test. Vet.' ii. 560.

³ John Broke, perhaps the eldest son and heir-apparent of Thomas Broke, of Leighton, Cheshire, Esq., by Elizabeth, daughter of Hugh Starkey, of Oulton, of whom he was a feoffee in trust on October 3, 12 Henry 8 (1520). He died before 1522 (G. Ormerod, 'Hist. of Cheshire,' ed. T. Helsby [1882], iii. 453-4). The fourth son of Thomas Broke was Sir Richard Broke, Chief Baron of the Exchequer ('Dict. Nat. Biog.'). John Broke was a practising barrister in the reign of Henry 7 (E. Foss, 'Lives of the Judges' [1857], v. 20), and possibly the — Brooke called serjeant in 1503. Ib. 15.

⁴ See p. 121, n. 4.

⁵ Senior bailiff and receiver of Exeter in 1503, in which year two mayors and two bailiffs, of whom Guscott was one, died of the plague. Izacke, p. 104.

⁶ The twelfth year of Edward 4 began March 4, 1472, and the twenty-second ended March 3, 1483.

⁷ Blank in MS.

⁸ Keeper of Ludgate, where the tolls from the West were taken. See pp. 71, 73, 84.

⁹ Star Court still survives on the east side of Bread Street, a few doors north of Watling Street.

¹⁰ Sic.

the Counter¹¹ of London said that men of Excestre were free, and ought to paye no thyng, and so the said John saith that in all the said tyme he paid no Scavage ne any other thyng.

John Bonyfent¹² Citezen and inhabitant of the Cite of Excestre of the age of lx yere and more sworne and examyned saith and deposith that in the Kynges daies that now is one martyn then beyng maier of London¹³ he had xvj peces of lynnyn cloth Caried from Excestre to

¹¹ The Counter, or Compter, of Bread Street was on the west side of the street, and was a prison of the sheriffs, where also they and their officers kept their courts. It was a house belonging to the Goldsmiths' Company, who let it on lease to the person who farmed the prison. In the fourteenth century each sheriff kept his own compter. The consequence of this was a competition for prisoners, from whom profit was extracted, which in 1378 resulted in a dispute between the sheriffs and the mayor and the expulsion of one of the sheriffs from office for attempting to get possession of a prisoner contrary to the mayor's orders (H. T. Riley, 'Memorials of London &c.' [1868], pp. 413, 417). In the Compter were lodged women of bad repute who transgressed the City's ordinances (ib. 458). It was also a place of detention for persons to be brought to trial before the mayor for like offences, who after condemnation were sent to Newgate (ib. 522, 595-6. Down to 1413 committals were specifically directed to one of the two sheriffs' compters (ib. 595), but in 1418 the sheriffs seemed to have combined to maintain one prison known as 'the Compter' (ib. 663, 676). It does not appear where this was, but as this evidence refers back to the reign of Edward 4, it is not improbable that it was established in Bread Street between 1413 and 1418, where it remained until 1555, when it was removed to Wood Street. The curious story of its removal, owing to the legal inability of the Corporation to discharge its keeper, the lessee of the house, is told at length in J. Stow's 'Survey,' edited by J. Strype (6th ed. 1754), i. p. 690.

¹² John Bonyfent, Bonenfant, or Bonyfaunt, bailiff of Exeter in 1486, bailiff and receiver in 1495 and 1505 (R. Izacke, pp. 94, 97, 105). A representative of the democratic party in Exeter. For his usurpation of the office of Mayor of the Staple in that city and his deposition by the Privy Council, see 'Select Cases in the Court of Requests,' Selden Soc. (1898), pp. lxxv, lxxvi, 3-6. Those events had occurred in 1498. In 1482 he is described as 'Inholder' of Exeter. MS. R. O., Exch. K. R. Mem. Roll, M. T.

21 Ed. 4, m. xxxv. Cf. also p. 9, n. 22, *supra*.

¹³ Sir William Martin, Skinner, mayor in 1492, son of Walter Martin 'of the County of Hertford' (J. Stow's 'Survey,' ii. p. 223). This was perhaps the Walter Martyn who in 4 Hen. 4 (1402-3) contributed to the building of the Church of Hexton, Herts (J. E. Cussans, 'Hist. of Hertfordshire [1874-8], Hundred of Hitchin, ii. 9). William Martyn was appointed by Edward 4 Controller of the Subsidy in the Port of London and the ports and places adjacent on August 6, 1470 (Pat. Rolls, 10 Ed. 4, p. 216). Presumably he was a Yorkist in politics, for in the following October, after the flight of Edward 4 to the Continent, he was displaced. Pat. Roll, Oct. 24, 49 Hen. 6 (1470). A month after Tewkesbury he was reinstated by Edward 4 (June 12, 1471; Pat. Roll, 11 Ed. 4, p. 269). He had probably rendered Edward 4 active assistance, for on October 6, 1471, he received a dispensation from the statute against officers of the customs acting as merchants on freighting ships (Rot. Parl. v. 54 b; Statutes 20 Hen. 6, c. 5 [1442]). A grant further allowed him to ship wools or woollfells to the staple at Calais—i.e. for the Netherlands or 'by the Straits of Marroke'—i.e. for the Italian market (Pat. Roll, 15 Ed. 4, p. 546). He was one of the sureties for Lord Hastings, a prominent Yorkist peer, on his appointment as Keeper of the Royal Exchange in the Tower of London, February 3, 1471 (ib. 16 Ed. 4, p. 20). He had ceased to be a controller, but was a collector of the subsidy in 1481 (ib. 20 Ed. 4, p. 232). He was appointed one of a committee of lunacy for John Husey the elder, of Shapwike, Dorset, on December 20, 1480. That he had a previous connexion with the county is evident from the fact that since April 16, 1478, he had been on its commission of the peace (ib. p. 558). He was nominated a commissioner of the subsidy from aliens in that county on April 27, 1483 (Pat. Roll, Ed. 5, p. 353), a commission renewed after the accession of Richard 3 (Aug. 1, 1483, Pat. Rolls, 1 Rich. 3, p. 393). He was sheriff of London in the same year (J. Stow,

London by one William Naynow, Cariour of Excestre, the which cloth was takyn from the said Carriour by a servaunt of the Sherofes of London than be cause the said cloth was not broughten to Blakwel-hall¹⁴ and by cause the said Carriour denyed to paie Scavage and Custome of hym asked for the same, and brought in to the Yelde hall¹⁵ of London and thare it rested vnto the tyme the said John came to London and thare complayned hym to the maier and Sheroffes of London of his said Cloth so takyn and for the delyuerance of the same

'Survey,' ii. p. 223), and as such a commissioner to inquire into the estates and goods of those implicated in the insurrection of the Duke of Buckingham in the previous autumn (Pat. Rolls, 1 Rich. 3, p. 393, December 10, 1483). He was part owner of a ship called the Kateryne of Fowey accused of an act of piracy upon the goods of an English merchant to Bordeaux in February of the same year. *Ib.* 517. That he was trusted by Richard 3 is evident from his nomination as a commissioner of array for Dorset on May 1, 1484, in order to take measures against the expected invasion of Henry Tudor, Earl of Richmond (Henry 7) (*ib.* 397), and again on December 8, following (*ib.* 488). But he probably deserted Richard, for he was selected by the citizens of London to be one of the four aldermen to make arrangements for the entry of Henry 7 after Bosworth (August 31, 1485, W. Campbell, 'Mat.' i. p. 6). From a mutilated document of January 2, 1486, it would appear that he had in his custody the plate of John Howard, first Duke of Norfolk, killed at Bosworth, which he delivered up to Henry 7 (*ib.* p. 244). Perhaps as a reward for this he obtained either for himself or for a relative, William Martin, of the county of Dorset, a licence for one year, dated March 9, 1486, to import 200 tons of foreign wine (*ib.* 381, cf. J. Gairdner, 'Letters and Pap.' R. 3 and Henry 7, i. p. 407, where William Martyne is among the gentlemen deputed to convey Katharine of Aragon from Sherborne to Shaftesbury on her journey to London in October 1501). But he was apparently involved in some trouble in 1488, for on March 10 he was compelled to take out a pardon for offences against the king's peace and to find security for good behaviour (W. Campbell, 'Mat.' ii. p. 273). He was master of the Skinners' Company in the same year (R. E. C. Waters, 'Genealogical Memoirs of the Family of Chester of Chicheley' [1878], i. 6). He was Mayor of London in 1492-3, and was knighted by Henry 7 on January 6, 1494 (W. C. Metcalfe, 'Book of Knights' [1885], p. 24). His will was proved in

1504, he being then described as of 'Pudleston, Dorset.' It appears that a family called St. Martin had held land here since the thirteenth century, being probably represented by Robert Martin in 5 Ed. 3 (1331-32), and by Thomas Martin in 16 Ed. 4 (1476-77) (J. Hutchins, 'Hist. of Dorset' [1803], ii. pp. 201, 202, 204), from which family we may perhaps infer his father to have sprung. It was a family of considerable distinction, and, as the quarterings on the monuments in Piddleton Church (engraved by Hutchins, p. 206) shew, of influential connexions.

¹⁴ Blackwel Hall, an ancient house of the family of Basing, originally called Basing Hall. In the 36th Ed. 3 (1362-63) it belonged to one Thomas Bakewell, from whom it was called Bakewell, afterwards corrupted into Blackwell Hall. It was transferred, in 20 Ric. 2 (1396-97), to the mayor and corporation ('ad opus communitalis,' and was constituted in the following year, in the mayoralty of Richard Whittington, a weekly market-place for woollen cloth. Here, by decree of the corporation in 1398, all cloth belonging to 'foreigners,' that is, persons not free of the city, was to be brought under penalty of forfeiture (J. Stow, 'Survey,' i. p. 579). The cloth-market was then fixed to be held from 11 a.m. on Thursdays to 11 a.m. on Saturdays (H. T. Riley, 'Memorials of London &c.,' p. 551), but at a later date (1548) it appears that 'strangers,' i.e. aliens, were restricted to purchasing on Tuesdays, i.e. after the City merchants had been served (Acts of Privy Council, ed. P. R. Dasent, ii. p. 553). The pretext for this institution was to prevent 'deceitful bargains' (Riley, *l.c.*), but the real reason was to prevent dealings between 'foreigners.' This endeavour to concentrate the trade in the hands of the London drapers was resisted by Parliament, which enacted in 1406 that drapers and cloth-sellers should be free to sell their cloths in gross as well to all the king's liege people as to the citizens of London, notwithstanding any franchise or liberty granted to the contrary.' 7 Hen. 4, c. 9.

¹⁵ Gild hall.

shewed that the Citezens and inhabitantes of Excestre werre and be as free as London is aswell of Scavage as of all other Custome as by Chartours thereof made and Confermyd from Kyng to Kynge as more playnly it doith appere, and so praied the said maier and his brethern and the Shereffes to haue his said cloth delyuered, or els he wolde Complayne hym further, and tharuppon he had good chere, and his cloth delyuered franke & free with owte any Scavage custome or other Charge.

Also the said John saith that in the xv yere of the Reigne of Kyng Henry the vij¹⁶ or nygh thare abowte he frightid a shippe of Gascoyn wyne vnto London and thare he made sale and delyuerance of the same franke and free and paied no Custom ne other Charge for the same ouer to the seid Cite nor none was hym demaundid for the same.

Robert Bonyfant¹⁷ Citezen and inhabitant of the Cite of Excestre of the age of liij yere sworne and examyned saith and depositth that he hath vsed to send lynnyn cloth and other ware from Excestre to London by the Carriours of Excestre from the xiiij yere of Kyng Edward the iijth vnto the iijth yere of the Kyng that now is,¹⁸ and syn all that tyme he paied no Scavage ne eny other Custome for his said ware nor none was hym demaunded saue only by one Richard Chester¹⁹ and Thomas Bretyn²⁰ the which the ij^{de} yere of Kyng Richarde the ij^{de}²¹ than beyng Shereffes of London distreyned apece of lynnyn cloth of the said Robert for Scavage be cause he wold not paie it when it was asked hym the which pece of cloth laie in the said Shereffes warde vnto suche tyme as it was delyuered to hym franke and free withowte any Scavage or other Custome paied for the same

¹⁶ August 22, 1499–August 21, 1500.

¹⁷ See *Tayllour v. Att Well*, A, p. 9 n. 22.

¹⁸ The fourteenth year of Edward 4 began March 4, 1473, and the fourth year of Henry 7 ended August 21, 1489.

¹⁹ Richard Chester was the younger son of Robert Chester of Stow-on-the-Wold. He was a skinner and merchant of the Staple of Calais. His family was probably Lancastrian, for in July 1472, a year after the restoration of Edward 4, he and his brother William took out a general pardon. In this he is described as of Stowe St. Edward, co. Gloucester, chapman, alias wolman, alias citizen and skinner of London (*Pat. Roll*, 12 Ed. 4, p. 347). He became alderman and sheriff of London in 1484, and died of the sweating sickness early in 1485, his will being proved by his widow on March 15, 1485. He was twice

married, the surnames of his wives being unknown. His will, dated May 25, 1483, is printed at length in R. E. C. Waters, 'Genealogical Memoirs of the Family of Chester of Chicheley' (1878), i. 5, and that of his widow, Alice, a native of Stow. *Ib.* p. 7.

²⁰ Thomas Bretyn also fell a victim to the sweating sickness in 1485, a year of which it is recorded by Stow that there were 'three sheriffs and three mayors this year (1484–85) by reason of the sweating sickness' ('Survey,' ii. p. 223). He was a ironmonger and represented his company at the coronation banquet of Richard 3 on July 6, 1483 (*J. Nicholl*, 'Hist. of the Ironmongers' Company' [1851], p. 45). His will was proved in 1485, he being described as of St. Mary-at-Hille London. *J. C. C. Smith*, 'Index,' i. 78.

²¹ June 26, 1484, to June 25, 1485.

by virtue of a decree tharupon made by my Lorde Cardinall late decessed than beyng Chaunceler of Englund²² and my Lorde Priuy Seall²³ the vth yere of the raigne of oure soueraygne Lorde Kyng Henry the vijth.²⁴ Also the said Robert saith that in the xx^{ti} yere of Kynge Edward the iiijth²⁵ came²⁶ to London with a Shippe called the Burnet²⁷ of Dartmouth²⁸ wherof Thomas Greyston²⁹ was owner charged with oseys³⁰ and Caprikkes³¹ wherof the said Robert had for his part xx^{ti} ton and by the freedom of Excestre he was discharged frank and free and paid no custome ne other charge for the same to the cite.

Also the same Robert saith that he in the same yere send to London in the Anne of Fawy ij m^l of Suger and ij barell of mete³² oyle and sold it to one Harry Benys³³ in Buklersberg in London and paid no thyng for Custom ne for none other Charge to the Cite Sauyng only a peny for a bill and so entred it in to the kynges Custome with owte any more charge Custome or demaund.³⁴

William Naynow Citezen and inhabitant of the Cite of Excestre of the age of lvj yere sworne and exaymyned saith and deposeth that he vsed to cary Lynnyng cloth and other marchaundisez from Excestre to London by the space of xxxv yere last past and there was no Scavage, ne other Custom askid or demaundid of hym ne of any other that cam with hym for the same onto suche tyme as the said³⁵ Cotyn keper of Ludgate and his seruauntes demaunded and askid of the said William for euery pak ij d. and by cause the same William refused to paie the said ij d. for a pak the said Cotyn and his seruauntes ought³⁶ tymes

²² Cardinal Morton, Chancellor from March 6, 1487, to September 13, 1500. Lord Campbell, 'Lives' (3rd ed. 1848), i. 423.

²³ Richard Foxe, Lord Privy Seal 1487-1516; bishop of Exeter, 1486; of Bath and Wells, 1492; of Durham, 1494; of Winchester, 1501-28. Le Neve, 'Fasti'; 'Dict. Nat. Biog.'

²⁴ August 22, 1489-August 21, 1490.

²⁵ March 4, 1480-March 3, 1481.

²⁶ Sic, 'he' omitted.

²⁷ Perhaps so called from the plant 'the greate Pympinella or burnet' (Andrew Brunswyke, 'Distyll. Waters' [1527], c. j). There was also a dark brown cloth so named. See J. A. H. Murray, 'Eng. Dict.,' s.v.

²⁸ The port of Exeter. The customs of Exeter and Dartmouth were returned in one account. See the detailed customs accounts in G. Schanz, 'Englische Handelspolitik,' ii. pp. 38, 50.

²⁹ There was a person of this name who was groom of the chamber to Edward 4, from whom he received a grant for life on September 1, 1476, of land in Kenford by Ken, co. Devon, forfeited by attainder of Thomas Courteney, Earl of Devon, by Act of Parliament of November 4. 1 Ed. 4 (1461); Pat. Rolls, 16 Ed. 4, p. 505.

³⁰ Osey, a kind of wine. J. O. Halliwell, 'Arch. Dict.,' s.v.

³¹ Caperikis, a kind of wine. Ib.

³² Sic for 'nete.' Neat-oil or neat-foot-oil was oil or grease extracted from cows' feet. Id.

³³ Or 'Beuys.'

³⁴ The first folio ends here. It is endorsed 'Excestre contra vice comites Londonii pro scavagio.'

³⁵ Blank in MS.

³⁶ A form of eight. See J. A. H. Murray, 'Eng. Dict.,' and J. O. Halliwell, 'Arch. Dict.,' s.v. But it may be for 'oft.' Cf. conversely on p. 128 'brofte' for 'brought.'

pullid and fillid a downe the pakkes and at summe tyme wold opyn them and then amonge other founde monye the which the owners therof in no wise wolde were knowen for fere of thevis, and for that cause the said William saith he hath paied ij d. for a pak, And by cause this Custom afterwarde grewe gretter and gretter to the owners of the goodes, they caused the mater to be shewed vnto my Lorde priuy Seall and theruppon was no Scavage, ne other Custome demaundid hym for no maner of ware by the space of many yeres after, or nowe by the space of a iiij or v yeres past.

Also the said William Naynowe saith furthermore that vpon a tyme whan one W. purches³⁷ & welbek³⁸ was Shereff of London he brought lynnyn cloth to the Starre in Bredd Strete in London whereof iiij fardell³⁹ ware one John Bonyfantes Citezen and inhabitant of Excestre forsaide the which iiij fardelles the said William had solde to the wif of the Ton⁴⁰ in Themys Strete and tharuppon cam a seruauant to the said Sherofes, and toke the said cloth from hym and Comaundid hym to come be fore the Chamberlayn of London⁴¹ and so he dede and the same Chamberlayn askid hym why he solde any cloth or it brought to Blakwilhall and the said William answered and said that

³⁷ William Purches, or Purchase, sheriff in 1492, the year of William Martyn's mayoralty, son of John Purchase of Gamlingay, Cambridgeshire (J. Stow, 'Survey,' ii. p. 223). He was a mercer. On October 7, 1463, a commission was issued to the earl of Warwick as warden of the Cinque Ports, the mayors, bailiffs, customers, &c. of the ports, one of the king's serjeants-at-arms, William Purchase, and two other persons to arrest certain merchants of Genoa and bring them before the king in Chancery (Pat. Rolls, 3 Ed. 4, p. 303). He sold cloth of arras to Edward 4 in payment for which and for other debts, amounting in all to 465*l.*, that king granted him on June 19, 1473, certain remissions of customs and subsidies for four years (ib. 13 Ed. 4, p. 389). He also obtained a grant of wardship of one Thomas Derham (December 13, 1473, ib. p. 416). He was a trustee of the will of Richard Sely (Cely), the younger, merchant of the Staple of Calais, who died June 5, 1493, and whose letters have been published by the Camden Society (the Cely Papers, ed. by H. E. Malden, 1900) (Inq. p.m. Hen. 7, i. 886). He was mayor in 1497 (J. Stow, 'Survey,' ii. p. 223). His will, in which he is styled alderman, of St. Laurence olde Jury, London, and Eltesley, Cambridge, was proved in 1503 (J. C. C. Smith, 'Index,' ii. p. 429).

³⁸ William Welbek, or Welbeck, haberdasher, sheriff in the same year with W.

Purches, son of Richard Welbeck, of Ashborne, Derbyshire ('Harl. Soc.,' xiv. 599). He married Jane —; d. December 25, 1485 (inscription in Putney Church). O. Manning and W. Bray, 'Hist. of Surrey' (1814), iii. p. 292. His will was proved in 1510 as of Allhallows, Barking, London, and Puttenhith, Surrey. J. C. C. Smith, 'Index,' ii. p. 561.

³⁹ Dim. of old French 'farde,' a burden. 'A bundle, a little pack, a parcel.' J. A. H. Murray, 'Eng. Dict.,' s.v.

⁴⁰ A method of nomenclature still common in Welsh. The sign was the barrel, called a ton or tun, containing 252 gallons ('Rot. Parl.,' v. 30 b; Stats. 18 Hen. 6, c. 17 [1439]). Part of Thames Street was in the ward of Vintry, where was the hall of the Vintners' Company, incorporated by Edward 3 as the wine-tonners or vintonners, and where the French wine merchants transacted business (J. Stow, 'Survey' [ed. 1633], p. 254). The coat granted to the Vintners' Company on June 17, 1447, was 'sable, a chevron between three tuns argent' (T. Milbourn, 'The Vintners' Company' [1888], p. 9). See further for this sign J. Larwood and J. C. Hotten, 'Hist. of Signboards' (3rd ed. 1866) p. 474.

⁴¹ The chamberlain received the rents and revenues of the City. He had a special supervision of the sheriff's business. J. Stow (ed. J. Strype, 6th ed. 1755), ii. 475-6

he had sold diuers tymes lynnyn cloth in his Inne and was neuer chalyngid therfore till nowe and that he knew not that any lynnyn cloth shuld be brought to the said hall and so the same Cloth rested in the Sherof warde till that the said John Bonyfant came to London for the delyuerance of the same. And when he came to London and Comynyd with the said Sherof for the same he shewed the said Sherof suche mater for the discharge therof and so behaued hym that he had his said Cloth delyuered franke and free, with owte any Scavage Charge or other Custome to the said Sheroffes payed.

John Wilkyns⁴² Citezen and inhabitant of the Cite of Excestre of the age of lx yere sworn and examyned saith and deposeth that he send lynnyn cloth from Excestre to London dyuers tymys by the Carrier of Excestre from the iiijth yere of the reign of Kyng Henry the vijth till the xth yere of his reign than next insuyng⁴³ and in all that tyme his ware was sold and delyuerd and no thyng askyd of hym for Scavage ne for any other Custom nor none he payde.

Mighell Sweteled Citezen and inhabitant of the Cite of Excestre of the age of lx yere sworn and examyned saith and deposeth that he vsed to carry lynnyn cloth and other merchandisez from Excestre to London from the ij^d yere of the reign of Kyng Edward the iiijth vnto the iiijth yere of the reign of Kyng Henry the vijth⁴⁴ and in that tyme he caried lynnyn cloth of one Robert Smyth⁴⁵ and John Coshyll⁴⁶ than Citezens and inhabitantes of Excestre forsaide and of many other from Excestre to London and thare sold and delyuerd moche of the same and in all that tyme he neuer paide Scavage ne other Custom nor none was of hym asked ne demaundid but only an halpeny for a horse comyng in wardes in to London and so for a nother halpeny goynge owte wardes from London.⁴⁷

John Butler⁴⁸ Citezen and inhabitant of the Cite of Excestre of the age of lvj yere sworn and examyned saith that he hath vsed to send lynnyn cloth to London from Excestre by the Carriour of the

⁴² John Wilkyns, or Wilkin, steward and bailiff of Exeter in 1495 (Izacke, p. 97). He is styled 'John Wilkyn, alias Wylkyns, of Exeter, marchaunt, alias shomaker, in a general pardon issued on February 10, 1482, to a number of persons apparently connected with the customs of Exeter. Pat. Roll, 21 Ed. 4, p. 261.

⁴³ The fourth year of Henry 7 began August 22, 1488, and the tenth year ended August 21, 1495.

⁴⁴ The second year of Edward 4 began March 4, 1462, and the fourth year of Henry 7 ended August 21, 1489.

⁴⁵ Robert Smyth, receiver and bailiff of

Exeter 1456, steward and senior bailiff 1458 (Izacke, p. 84), mayor of Exeter upon the occasion of the visit of Edward 4 in 1469. *Ib.* 87.

⁴⁶ Probably the same as John Colshill. See *Tayllour v. Att Well*, A, p. 9, n. 18. See also p. 51.

⁴⁷ The toll charged for horses entering and leaving the City appears to have varied according to the kind of merchandise they carried. See 'Lib. Albus,' pp. 232-235.

⁴⁸ Will of John Butteler, of Holy Trinity, Exeter, proved 1509. J. C. C. Smith, 'Index,' i. 98.

same from the iij^{de} yere of the reign of Kyng Henry the vij^d vnto the xiiijth yere of his raign ⁴⁹ than next insuyng, And in the first vij yere of the same xiiij yere he neuer paide Scavage ne other Custome for eny parcell of his ware ne none was hym demaundid vnto the xj or xij yere of the same kyng ⁵⁰ a seruaunt of one of the Sherovys of London distreyned hym some tymys by a pece of lynnyn cloth and some tymys by a hole pak by cause he wold not pay theym Scavage when it was askyd hym and by that menys he paide theym to haue his godes delyuerd and by cohercion of distresse and none other wise Also the said John saith that in the xiiijth yere of the reigne of Kyng Henry the vijth ⁵¹ or nygh there abowte he and other frightid a Shipp to London which was Chargid with xvj ton of Swete wyne and L ton of frute and vppon the discharge therof the Sherofes seruauntes and other distrayned there godes ⁵² and kept theym ⁵² vnto the tyme the said John put a gage ⁵³ in to master Ysak of London ⁵⁴ ys hand and he was suerte ouer to the Sheroffes for all suche Customys and dutes as they cowde lafull aske and so he discharged and sold his said ware and after that departid from London home and left ij m^l lede ⁵⁵ for a gage in the handes of the said master Ysak and so it lay in hys hand vnto the space of xij wekes and more that the said John came agayne to London and than and thare he paide to master Ysak or he mought haue his saide gage v markes ⁵⁶ and more mony how moche he ys not well remembrid And so by that menys he hath paide Scavage and Custome &c.

John Nordon ⁵⁷ Citezen and inhabitant of the said Cite of Excestre of the age of xxxj yere and more sworn and examyned saith that he hath vsed to send to London from Excestre by the Carriour of the

⁴⁹ The third year of Henry 7 began August 22, 1487, and the fourteenth year ended August 21, 1499.

⁵⁰ The eleventh year of Henry 7 began August 22, 1495, and the twelfth ended August 21, 1497.

⁵¹ August 22, 1498–August 21, 1499.

⁵²⁻⁵² Interlined.

⁵³ Gage, vadium, signifies a pawn or pledge, and is derived from the French gager, that is, pignori dare. J. Cowel, 'Interpr.,' s.v.

⁵⁴ William Ysak or Isaac, alderman of London, sheriff 1488, probably one of the family of Isaac or Isaack, of Westdown &c., Devonshire, of which the pedigree from Simon Isaac, of Borriatt, in Atherington (d. 1570), is given in 'The Genealogist' (1880), iv. 118; cf. Harl. Soc., vi. 159. From the evidence of 'Mr. Izak' given in I, p. 91,

infra, we learn that he was at first in the service of Sir Ralph Geosslyn or Joceline, mayor of London in 1476. His will was proved as of 'St. Dunstone in thest,' London, in 1519. J. C. C. Smith, 'Index,' i. 295.

⁵⁵ In 1499 lead was exceptionally cheap, being 1*l.* 19*s.* the fother of 19½ cwt*s.* at Cambridge (J. E. T. Rogers, 'Hist. Ag. and Prices,' iv. p. 477). At this price the value of 2,000 lb. of lead would be 3*l.* 5*s.* 10½*d.* The money paid for its redemption indicates that the price was approximately the same in London.

⁵⁶ 3*l.* 6*s.* 8*d.*

⁵⁷ John Nordon, steward and bailiff of Exeter, 1503, in which year he and the former witness, John Guscote, his fellow-bailiff, and two mayors died of the plague. R. Izacke, p. 104.

same lynnyn cloth and other marchandisez from the vijth yere of the raighn of Kyng Henry the vijth vnto the xvj yere of his raighn ⁵⁸ and in all that tyme he paide for his said ware no Scavage ne other Custom vnto the tyme that one Bradbury beyng Sherof of London ⁵⁹ which hauyng knowlich of the said John ys ware desired hym to haue the first sighte tharof and so they mought not accord of the prise and departyd and tharupon while the said John went in to London for other besynesse the said Bradbury fette ⁶⁰ and toke away a pece of cloth from Blakwyll hall whare the cloth was brought to sell and so kept the same by the space of a qarter of an yere and more and so the said John sold the residue of his ware and came to Excestre and after that whan he came to London agayne he asked the said pece of cloth of the said Bradbury and he ansuerid that he shuld haue it payyng his duty and than the said John askyd how moche it was and he said ix s. and tharupon the said John said that he wold pay no ix s. for he knew no suche duty and than in conclusion Bradbury bought the said pece of Cloth for xxvij s. wharof he paide to the said John xxij s. and the residue he yet retayneth in his hand for Scavage and so by that menys the said John paide Scavage &c. Also the said John saith that he broughte more lynnyn Cloth to London with in the Space of a yere then next insuyng and other ware and whan he came to London the keper of the byllis ⁶¹ wold not Suffer the Carriour to passe vnto the tyme that the same John put an hundred of mader ⁶² in gage in to the handes of the said keper for iij pakes of ware wharof iij were the said John Nordon and one was John Butlers and the which hundred of mader yet restith in the said keepers hand and thus by cohercion he hath been compellid to pay Scavage and Custome &c.

Will Sylke. Per me Johannem Caryll.

per me Johannem Brook.

⁵⁸ The seventh year of Henry 7 began August 22, 1491, and the sixteenth year ended August 21, 1501.

⁵⁹ Thomas Bradbury, mercer, sheriff of London 1498, mayor 1509, 'son to William Bradbury, of Braughin, in Hertfordshire' (J. Stow, 'Survey,' ed. J. Strype, 6th ed. 1755, ii. p. 224). He died January 9, 1509, during his term of office (Inq. p.m. 2 Hen. 8, November 7; P. Morant, 'Hist. of Essex' [1768], ii. 619 n.). His will was proved in 1509 as of St. Stephen, Colmanstrete, London; Brawkhyng, Herts and Essex (J. C. C. Smith, 'Index,' i. p. 74). In this last county he held the manor of Baads, or Bawds, in South Weald (Morant, i. p. 121), and that of Manewden or Manu-

den (ib. ii. p. 619). See Harl. Soc. xiii. pp. 28, 157.

⁶⁰ See Eynesham, Abbot of, v. Harecourt and others, A, p. 141, n. 12.

⁶¹ Perhaps the chamberlain's clerk. In Liber Albus, i. 48 it is provided that this official shall have half of the sum arising from the twelve pence taken for the entry 'des billes de fraunchises' (of writs of franchise). In I, p. 92, *infra*, we read of 'the bill-taker of Ludgate.'

⁶² The root of *Rubia tinctorum*, much cultivated in the Middle Ages both for the dye extracted from it and for its supposed medicinal virtues in stanching bleedings &c. (see J. Gerarde, 'The Herball' [1636], p. 1121). Madder does not appear to be

G The Interogatorys to be proved of the part
of the City of london.

Item. Fyrst, Whether they haue be peasabelly possessid & seasid off Skavage off any off the Cytesaynys of the City off Exetter ¹ oute of tyme of mynd,¹ yee or no. And yff they have be seasid there off whoo hytt was that resseyvd the seid skavage and of wham hytt was resseyvd yff any suche were payyd and what they toke for a pake.

Item. Another, Whether hytt was payyd by coareyen & compulcion ye or noo. And who were Shyrffis of london when hytt was payd.

Item. Another, Whether seche persons as have resseved the seid Skavage made any Bokkys off the ressevyng there off yee or no. And yff they dyd where thosse bokys be now and yn whosse kepyng they bee yff any seche bee.

Item. Another Whether Thosse persons that have resseyvd the seid Skavage euer accountyd of the ² * 2 * 2 * 2 [the]^r ² off ye or nay. And to who ys vse hytt was takyn.

H.¹

Memorandum that I marke John other wise callyd John Lumberd Testifie and afferme as I will Tacke a oithe be fore any Jugge where as I shalbe callyd that I Gadered and receivid the Kynges² Custume callyd skavaige within the Cite of london aswell for the maire as the Shryves of the same Cite by the space of xj yeres, duryng all wich tyme every citezyn and inhabitaunte of the Cite of Excester bryngyng wares or merchaundises by water or by lande to the said Cite of london paide to me for the same wares and merchaundises to thuse and behoff of the saide mayre and Shryves the saide Custume callyd Skavage from tyme to tyme after the Rate of their said wares and merchaundises withoute interrupcion grugger³ or denyer, And after my remembraunce the citezyns and Inhabitauntes of the saide Cite of Excester vsually and yerly repairyng with wares and merchaundises to the saide Cite of london and paiyng Skavaige for the same as is

Vacat.

mentioned in Rogers, 'Hist. Agr. and Prices' for this period. Some was imported from Holland to Lynn ('Rot. Parl.' ii. 215 [1347]). A complaint was made by the Commons in 1415 that the dyers of Coventry monopolised it and raised the price of dyeing. Ib. iv. 75, a.

¹⁻¹ Interlined.

² MS. torn.

¹ S.C.P. Hen. 8, Bdle. 26, No. 55. A

loose paper belonging to this suit, sorted by mistake into the bundles of the Star Chamber documents of Hen. 8.

² See the plea in C, p. 75, supra.

³ Complaint. Cf. 'Paston Letters (1467), ii. 306: 'I trost . . . that he nothyr hath ne shall have cause of grudger by my default.' J. A. H. Murray, 'English Dict.,' s.v.

aforsaide duryng the yeres of my saide occupacion receyvynge and gederyng of the saide Skavaige drwe to the number of xx^{thi} persones and a boue. In witnes of the trouthe of all the premisses forasmuch as I can not write I have put my marke and sign to thes presentes. And of thees ⁴persones folowyng I have speciall remembraunce of their names that is to say Richerd bedford ⁵Nicholas Bedford margery bedforde Water Humfrey.

Indorsed. Deposicion John Lumbard.



I. Tercio die mensis Junii Anno^{sc}. xvij^{mo}.¹

Markes John, otherwis callid John Lumbard now of Suthhampton ²where he hath dwelt vpon a iiij yeres past ²and befor that dwelling in London more then xxx^{ti} winters sworne and Examyned of and vpon thinterrogatories ministred by the partie of the Citie of London ³in the mater depending in the counsell betwixt the Citie of Excestre and thaim deposith and saith that he was Skavage gatherer in London, both to the maire and Shreves there, by the space of xj yeres afre the begynnyng of the kinges Reigne ⁴that now is, and he is wele remembred that by all thos yeres he receyvvd of ²diuers of ²the Citiezyns of Excestre and there inhabiting, for frutes and wynes brought bi thaim to the Citie of London by water, the dutye of Skavage according as the Citie of London takith and haue takyn custumablie of othre strangers repaying to the same Citie, and also he receyvvd of asmany of the said Citie of Excestre as in thos xj yeres resorted to London by Land with ²Canvas or cresteloth ⁵and ²any ²other ²wares in likewis the dutie of Skavage, but howmich money he receyvvd of euery of the said inhabitantes or what the namys be of thos of the said Citie of Excestre that he receyvvd the said skavage of, he is not now remembred ⁶butt thay paid it without grugge or contradiccion ²or

¹ This word has been struck through in the MS., but is included in the text as required by the context.

² There seem to have been several persons of this name. One of them had a wife Margaret described as 'widow, of London,' in 1472. Pat. Rolls, 12 Ed. 4, 320.

³ This mark is written not at the foot of the document but in a space left for it in the last line but two, and with the lower part of the left side crossing the end of the word 'persones.'

¹ 1502.

²⁻² Interlined.

³ These are missing.

⁴ August 22, 1485.

⁵ See Tayllour v. Att Well, A, p. 9, n. 25.

⁶ There follow, struck through with the pen, these words: 'saving of Richard Bedford, Nicholas Bedford, Thomas Bedford and Margerie Bedford, citizyns and inhabitantis of Excestre, he of whom for canvas & cloth and othre lynnens with them brought in the ixth yere of the kynges reign to Blakwell Hall he receyvvd skavage and.'

clayme to be quyte of payment therof² and so dyd all othre of the said Citie by the space of the said xj yeres in perell of this deponentes othe but how much money thay paid this deponent can not tell as he saith.

⁷ Edward Crosfeld of London mercer of thage of xxx yere as he saith sworne and examyned vpon thinterrogatories ministred bi the Citie of London in the mater of skavage depending betwix thaim and the Citie of Excestre deposith and saith to the first of the said Interrogatories that he thinketh verelye that the Fremen Inhabitantes of the said Citie of Excestre have paid the skavage for suche goodes as they haue brought to the said Citie of London, for as he saith at suche time as he was deputid to gather the skavage in the Citie of London there come a booke to his handes that was belonging to oone callid Leder, which long sithe died and whiles he lyved he was Skavage gatherer in London, and made that booke of the same² skavage² in whiche booke this deponent found certaign parcelles of money takyn of ij men of Excestre callid Slugge⁸ and Colshill⁹ for skavage of certaigne thair goodes, Whether it were paid of their fre willes, or by constraynt of distresse takyn or not² or houlong it is goone that thai paid that skavage² this deponent can not tell as he saith.

Item this deponent saith that he gathered the skavage in London in the daies of Mr Alwyn¹⁰ and Mr Remyngton¹¹ maires there; and he saith that of oone Staplehill of Excestre¹² there was takyn skavage

⁷ This is a separate folio from the preceding, but in the same handwriting. I have therefore treated it as part of the same document, viz. the depositions on behalf of the City of London.

⁸ John Slugge, or Slugg, steward and bailiff of Exeter 1482 (R. Lzacke, p. 91), receiver and senior bailiff 1494. Id. p. 97.

⁹ See F, p. 86, n. 46, *supra*.

¹⁰ Sir Nicholas Alwin, mercer, mayor in 1499, 'son to Richard Alwin of Spalding in Lincolnshire' (J. Stow, 'Survey' [ed. 1755], ii. p. 223). On May 4, 1480, 'Nicholas Alwyn alias Halewyne alias Alewyne, merchant of the Staple of Calais,' received, together with a number of other mercers and staplers, a general pardon of debts and accounts due to the king (Pat. Rolls, 20 Ed. 4, p. 243). He was made a co-feeffer, with Bishop Foxe, on April 1, 6 Hen. 7 (1491), of lands of one Richard Cantelowe in Bedfordshire. He was sheriff of London in 1494. By his will (proved 1518) he left benefactions to the parishes of Spalding and Cowbit, Lincolnshire. See Calendar of Wills in Court of Husting, London, ed. R. R. Sharpe (1890), ii. 611,

625. He left three sons (ib.). I cannot find any authority but that of Stow shewing that he was knighted, and Fabyan does not give him the title, though he does to other mayors and sheriffs. 'Chronicle,' p. 687.

¹¹ Sir William Remyngton, or Rennington, fishmonger, mayor in 1500, 'son to Robert Rennyngton of Boston in Lincolnshire' (J. Stow, l.s.c.), also a fishmonger by trade (P. Thompson, 'History of Boston' [1856], p. 390). He was sheriff of London in 1487, and, according to Stow, was made knight in the field by King Henry 7. This may have been at the battle of Stoke, fought on June 9, 1487, or it may have been at Bosworth, where his colleague in the shrievalty, Sir John Fenkell, was dubbed (W. C. Metcalfe, 'Book of Knights,' p. 12). He is styled knight in an inquisition of March 17, 1488 (W. Campbell, 'Materials,' ii. p. 164), the name there appearing as Remyngton. His will was proved in 1511 as of St. Mary Hill, London, and Newington, Surrey (J. C. C. Smith, 'Index,' ii. p. 442).

¹² Nicholas Staplehill, probably of the family of John Stapelhill, a prominent

the Svm of iiij or v s. this deponent is not remembred whether; but this deponent saith that the said Staplehill was noo freman of Excestre and therefor he paid the said skavage without any stoppage, as the bill taker of Ludgate whos name this deponent is not now remembrid of as he saith ² shewd him.² He saith also that he bought ² in the same yeres ² of oone callid John ¹³ Symons ² of Excestre ² asmich lynnencloth as answered to the svm of xl li. and the same John Symons desired this deponent to pay all suche duties ¹⁴ and costes ¹⁴ as was due in the said Citie of London for the said cloth; and this deponent as he saith at his request paid all the costes,² that is to say ² the skavage ² and other costes;² how be it when ¹⁵ this deponent askid allowaunce of the said John of the same Skavage ² by him paid ² he refused to pay it and said that the fremen of Excestre ought noone to pay, and for a trouth noo j^d cowde this deponent gete of him for that vnto this day as he saith.

Item this deponent saith also that in the daies of M^r Haws and stede Shreves of London ¹⁶ there was skavage askyd by oone James skavage gatherer then of oone Skrevener ¹⁷ Freman of Excestre for cloth bi him brought to London by water, and he refusid to pay it, for that he was fre of Excestre howbe it he was compellid ² bi the Shreves ² to leve a pawn in there handes ¹⁸ for the skavage if it were founde his dutie and that pledge was aftre that deliuerd vpon suretie that if it were found ¹⁹ that fremen of excestre shold ¹⁹ pay skavage that it shold be paid this deponent can nomore depose as in this behalf.

M^r Isak of London Alderman ²⁰ sworne saith that vpon xxxvj^t yeres past he was seruauant to sir Rauff Geosslyn then maire of London ²¹ and gatherd the skavage of London, and in that yere this

Yorkist who received large grants in Devonshire from Edward 4 soon after his accession in 1461 (Pat. Rolls, 1 Ed. 4, pp. 54, 227, 359). They were the estates of Sir Baldwin Fulford, an attainted Lancastrian, but were restored to his son, Sir Thomas Fulford, in 1468 (Rot. Parl. v. 584, vi. 231). Nicholas Staplehill was steward and bailiff of Exeter in 1517, in December of which year, and in the tenure of his office, he died (R. Izacke, p. 109). It appears from this document that he did not come of an Exeter family, though he perhaps founded one, as the name occurs subsequently in the city records. Ib. pp. 124, 194.

¹³ See Tayllour v. Att Well, A, p. 8, n. 21.

¹⁴ Interlined in substitution for 'for the said cloth,' struck through.

¹⁵ Interlined above this and the next

two words are the words 'and if thys deponent,' struck through.

¹⁶ See A, p. 71, nn. 5, 6, supra.

¹⁷ See A, pp. 71, 73, supra.

¹⁸ 'Of Mr. Hawes,' struck through.

¹⁹⁻¹⁹ Interlined in substitution for 'due to,' struck through.

²⁰ See F, p. 87, n. 54, supra.

²¹ Sir Rauff, Ralph, or Randolph Geosslyn, Jocelyn, or Joceline, draper, mayor of London in 1464 and 1476, was the third son of Geoffrey Jocelyn, of Sawbridgeworth, Herts (d. 1470), by Katharine, daughter and heir of Sir Thomas Bury. The family of Jocelyn traced its pedigree from the Conquest (see R. Clutterbuck, 'Hist. of Hertfordshire' [1827], iii. 203-5). Ralph Jocelyn was sheriff of London in 1458. He was knighted by Edward 4 on the expiration of his first term of office as

deponent receyvid of ij men of Excestre that oone of thaim was called Colshill,²² that other Slugge,²³ for clothe that thay brought to London, ² the skavage at the gates ² and as this deponent saith thay paid it with good will without any condiccion.

Item he saith that now of late in the daies of M^r Purchs when he was maire of London,²⁴ there come into the port of London a Portungale shipp lade with frute belonging to diuers men inhabitantes of Excestre, and the said M^r Purchas causid the said frute to be arestid for the skavage and then a seruauant of oone John Butlers of Excestre callid Cristofor ²³ which had the Rule of the said frute desired and praied this deponent to be suretie for the said skavage, and so this deponent was as he saith and after it was paid it amovnted to the Sum of vij or viij li. for xvij c.²⁵ peces of euery pece j^d ²⁶ Item in like wis in the daies of M^r Percevale²⁷ there come a shipp lade with

mayor in 1464 (J. E. C. Cussans, 'Hist. of Hertfordshire,' Hundred of Edwinstree [1872], p. 93). He was made K.B. on May 26, 1465, the occasion of the coronation of Queen Elizabeth Wydeville ('Chronicle,' ed. by T. Hearne, reprinted in 'Chronicles of the White Rose' [1843], p. 16). He was a Commissioner de Walliis et Fossatis, May 28, 1465 (Pat. Rolls, 5 Ed. 4, p. 451). On the following June 10 he was nominated, with the Duke of Clarence and others, on a commission of oyer and terminer for London and Middlesex (ib. p. 488). He was appointed (March 16, 1466) justice for the merchants of Almain (ib. p. 529); that is, to try causes between them and the citizens, in accordance with the ancient privilege of the Hanse (see G. Schanz, 'Englische Handelspolitik' [1881], i. 178 and n. 2). He was returned to Parliament for the City on April 13, 1467 ('Members of Parl.' i. p. 358). He was on the commission of the peace for Hertfordshire in 1471 and 1473 (Pat. Rolls, 11 and 13 Ed. 4, p. 616). In 1480 he is described as of Aspenden, or Aspeden, Herts, 'now of London, kt.,' in a list of inhabitants of the county worth more than 40s. a year (Cussans, 'Hundred of Braughing' [1870], p. 24. This manor he acquired in right of his second wife, Elizabeth, daughter and heir of William Barley, of Aldebury, Bucks, attainted in 1495 as a supporter of Perkin Warbeck (Rot. Parl. vi. 504 a), but restored in 1503 (ib. p. 554 a). It is impossible to reconcile the list of 1480, which represents him as living, with the statement in Clutterbuck, followed by Cussans, that he died on October 25, 1478. Sir Ralph also held the manor of Bigging, Essex, of the abbot of Stratford (P. Morant, 'Hist. of Essex'

[1768], i. 231, citing Inq. 18 Hen. 4 [qu. Ed. 4]). There was a Ralph Josselyn who acquired the manor of Uphall, Braughing, in 1484 (Cussans, 'Hundred of Braughing,' p. 190). He had a great-nephew of the same name, resident at Canfield Magna, Essex (Clutterbuck, l.s.c.; cf. S. P. Dom. Hen. 8, i. 1788). His first wife was Philippa, daughter of Philip Malpas, by whom he left a son, Richard Jocelyn, of Fidlers, Essex (Clutterbuck, l.s.c.).

²² See F, p. 86, n. 46, supra.

²³ Interlined in substitution for 'Edward,' struck through.

²⁴ See F, p. 85, n. 37, supra.

²⁵ Interlined in substitution for 'xij c.,' struck through.

²⁶ 7l. 10s.

²⁷ Sir John Perceval or Percival, merchant taylor, sheriff of London 1486, mayor 1498, son to Roger Percival, of London, knighted in the field by Henry 7 (Stow, 'Survey,' ii. 223), said to have been born near Macclesfield, Cheshire (G. Ormerod, 'Hist. of Cheshire' [1882], iii. p. 742). Received a licence on February 15, 1487, to export 500 quarters of corn (W. Campbell, 'Mat.' ii. p. 121), and on November 13, 1488, one to import 100 tons of wine from Gascony or Aquitaine (ib. p. 362). By a deed dated January 25, 1502, he founded the Macclesfield Grammar School (Ormerod, l.s.c.). He presented the Merchant Taylors' Company with silver gilt plate (C. M. Clode, 'Memorials of the Merchant Taylors' [1875], p. 89), and his name frequently appears in their records (id.). By his will dated February 21, 1502, he left twelve houses in St. Mary Wolnoth and St. Michael, Cornhill, the profits, after some religious and charitable provisions, to go

reasons²⁸ of the goodes of the said John Butler, John Frost and John Skryvaner of Excestre and other of the same, and the said Cristofor²³ had the Rule of the same,²⁹ and thei were arestid for the skavage;²⁹ eftsoones this deponent was required to be suretie for³⁰ it bi the same Cristofor²³ and so he was, and after it was paid. More can not this deponent say to thes Interrogatories.

John Alayn of London haberdassher³¹ of thage of lij yere sworne saith that in the daies of M^r Purchas and M^r Percevale when thei were maires of London he was deputid to gather the skavage in London, and he was paid bi the handes of M^r Isak the skavage of ij shippes that come to the port of London laden with Frute figges and Raisons which were belonging to diuers men inhabitantes of the Citie of Excestre of whos names he is not now remembrid as he saith but he hath a booke wherin he wrote bothe the names of the owners and his somes that he receyvid for the skavage. Moreouer he saith that he that had the rule of the said frute at bothe times was contentid to pay the skavage with good will without any denyell and without any arest made vpon the said goodes for the same.

Rowland Bird³² Iremonger of the Citie of London sworne saith that he hath knowen that the skavage hath be takyn² aswell² of fremen of Excestre as of other places for suche goodes as thei have brought to the Citie of London bi the space of xxvj^t yere & more and he hath knowen bi the bookes of Thomas Legge that was skavage gatherer ij or iij yere to which booke this deponent was previe, and also after that to a nother booke made bi oone Leder, in which bookes he saw that diuers inhabitantes of Excestre had payd the custome of skavage for suche thaire goodes as thai brought to London but he is not remembred of any more of them.² This deponent saith also that he hath ben skavage gatherer in London vpon v times and he is wele remembred that upon xvij yeres past ther were certaign peces of linnenclottes brought to London fro Excestre in the

to the company. His will was proved on June 24, 1503 (Cal. of Wills, Ct. of Husting, ii. 605). He married Thomasina, widow of — Gall and — Barnaby, who also gave plate to the company (Clode, p. 89) and bequeathed money for religious uses; will proved October 6, 1512 (Cal. of Ct. of Husting, p. 618).

²⁸ Raisins.

²⁹⁻²⁹ Interlined in substitution for 'instansid.'

³⁰ 'Of' struck through.

³¹ The John Allen, sheriff in 1518, mayor and a knight in 1525, is described as a mercer, and the age of this witness is

an obstacle to this identification, especially as the former did not die till 1540 or 1541.

³² Rowland Bird, or Birde, first appears as servant of Henry Nevill, of London, 'iremonger,' who took out a 'safe conduct and special protection,' perhaps on account of having been an adherent of Richard 3, on December 27, 1485 (W. Campbell, 'Mat.' i. 223), in which Rowland Birde was included. His will, as of St. Dunstan's-in-the-East, London, and Codham, Kent, was proved in 1508. J. C. C. Smith, 'Index,' i. 58.

name of John Atwell³³ and Philip atwell³⁴ of which he demawnded the skavage and was wele and trulie paid of it without any agaign sayyng vpon his othe and he hath knowen diuers other of Excestre late distrayned for that thai refused to pay skavage for thaire goodes, as Gumbie, John Symons and John Skryvaner² all² of Excestre and thay lefte pledges in this deponentes own handes. What was doone farther in it this deponent can not tell more &c.

Humfray Cornisshe of London sadler of thage of lij^t yere sworne saith that he as skavage gatherer in London tooke and receyvid of the goodes of oone John Howell of Excestre for skavage of iiij hors lode of lyncloth iiij^s in the monethe of Nouembre last past. He was paid with goode will of the said Howell or els of him that had the Rule of the goode. Other diuers fremen of Excestre sithe that time haue refusid to pay skavage wherfor thai haue be distrayned and left pledges vntill the mater be decided. He saith³⁵

GORYNG *v.* NORTHUMBERLAND, EARL OF.

A.¹ To the kyng oure soueraigne lorde

1500? In his moste humble and lamentable wyse shewith vnto youre Highnesse youre most Humble Subgiet and poure Oratoure John Goryng.² That where³ Erle of Northumberland claymythe and pretendythe to haue the warde and mariage of your saide Oratoure, For the discharge wherof your saide Oratoure hathe dyuers sufficient matirs to discharge hym ayenst the saide Erle, as the lerned Counsell of the same your Oratoure clerely thynkyth, that notwithstanding the

³³ See Tayllour *v.* Att Well, A, p. 7, n. 5.

³⁴ See *ib.* n. 6.

³⁵ These two are written as catchwords, and show that the deposition was not concluded. The rest is lost.

¹ S.C.P. Hen. 7, No. 33.

² John Goryng of Burkton or Burton, Sussex, son of John Goryng of Burton, by Joan, relict of Humphrey Hewster of London, and grandson of John Goryng of Lancing, who died in 1495 (pedigree in D. G. C. Elwes and C. J. Robinson, 'Castles &c. of Western Sussex' [1879], p. 267; but cf. pedigree in J. Dallaway, 'Rape of Arundel' [1832], ii. 282). The family took its name from Goring (Domesday, Goringes) in the rape of Arundel (Elwes, p. 57), and began to rise in importance in the reign of Henry 6 (*ib.*). It had been enriched by the

marriage of John Goryng, the grandfather, with Margaret, daughter of Ralph Badmyld and of Margaret, sister and co-heir of Hugh lord Camois (*id.* pp. 51, 267), who died in 1426 (*id.* p. 51). John Goryng of Burton, the father, also died in 1495, in which year his will was proved (J. C. C. Smith, 'Index,' I. p. 232). The family was intimately associated with the earls of Northumberland, as may be seen from numerous entries in the Inquisitions post Mortem of Henry 7, vol. i. Like the Percies, they were probably Lancastrians. John Goryng, the grandfather, who executed deeds in 1463 (*ib.* 468) and 1465 (*ib.* 1078), and was knight of the shire for Sussex in 1467 ('Members of Parliament,' i. 359), was alive on June 13, 1495 (Inq. p.m. Hen. 7, i. 1078). It was probably John Goryng, his son, who was appointed

saide Erle hathe seased the body of your saide Oratoure⁴ by reason of his pretendid title and kepith hym as his warde at his place at saynt Martyns yn london⁵ and hym soo there hathe kepte more lyke a prisonar than a warde from Thassencion evyn last passed vnto this tyme Soo it is nowe gracious soueraigne lorde that yt hathe pleased the saide Erle to commytte the saide matir to be yn examynacion of ii of your Justices and the matir by them examyned and vnderstande to make reporte therof to Sir Reynold Bray knyght for your body,⁶ and he to directe and ordre bitwene them as hym shalle seme good,

commissioner of musters for the expedition to Brittany on December 23, 1488 (W. Campbell, 'Materials,' ii. 387), and was upon the commission of the peace for the county in 1489 (ib. p. 478). The petitioner in this suit, John Goryng, the grandson, appears from his will to have been a member of Gray's Inn, since he had chambers there. His will is dated October 16, 1520, and is printed in Nicolas, 'Testamenta Vetusta' [1826], ii. 561. See also J. C. C. Smith, 'Index,' i. 232. He married Constance, daughter and co-heir of Henry Dyke, by Elizabeth St. John, heir of the families of Dawtrey and St. John (Elwes and Robinson, p. 266). By her he left a son, Sir William Goryng, gentleman of the Privy Chamber to Ed. 6, who died March 18, 1553. He was the ancestor of the earls of Norwich of this family. Elwes, l.c.

³ Blank in MS. This was Henry Algeron Percy, fifth earl. The earl's answer shows that at the time of this suit both the grandfather and father of the petitioner were dead. It must, therefore, have been after June 1495. Another retrospective limit of date is derived from the age of the earl. He was born on January 14, 1478 (Inq. post Mortem, Hen. 7, i. 468), and must have been of age before he could claim a wardship, so that the case cannot be anterior to 1499. On the other hand, it must be earlier than January 29, 1503, the date of the death of Edward Storey, bishop of Chichester (1477-1503), one of the claimants to the wardship, and earlier than the summer of 1502, the date of the death of Thomas Wood, Chief Justice of the Common Pleas (E. Foss, 'Lives of the Judges' [1857], v. 81). For the life of this earl see 'Dict. Nat. Biog.' and the Earl of Northumberland's Household Book, 1770. In Mich. term, 21 Hen. 7 (1505), he pleaded guilty in the Common Pleas to abducting Elizabeth, daughter and heir of Sir John Hastyngs, and was fined 10,000*l.* by the Court of Common Pleas, which fine was afterwards remitted. See MS. R. O., Exch. K. R. Mem. Roll,

M. T. 21 Hen. 7, f. ii. dors.

⁴ See Introduction, pp. cxiv, cxv, supra.

⁵ This was not Northumberland House in the parish of St. Martin's-in-the-Fields, which was built by Henry Howard, earl of Northampton, about 1605 (H. B. Wheatley, 'London' [1891], ii. 603). This was Northumberland House in the parish of St. Anne within the Liberty of St. Martin's-le-Grand. Stow says: 'It belonged to Henry Percy. King Henry 4, in the 17th of his reign, gave this house, with the tenements thereunto appertaining, to Queen Jane his wife, and then it was called her Wardrobe. It was afterwards a printing house, but now a tavern' ('Survey' [ed. 1633], p. 330 b). This Henry Percy was Hotspur, killed at the battle of Shrewsbury in 1403. This fifth earl of Northumberland was Hotspur's great-great-grandson. The house must have passed into the hands of Henry 4 by the attainder of Hotspur in January 1404 (Rolls of Parlt. vi. 252). That attainder was reversed by Richard 3 in 1483 (ib.), and the house must have reverted to the possession of the Percys, a fact unknown to Stow.

⁶ Sub-treasurer of England and Chancellor of the Duchy of Lancaster in 1485 (Campbell, 'Materials,' p. 89); knighted at the coronation of Henry 7 (October 30, 1485) (W. C. Metcalfe, 'Book of Knights,' p. 12). He is first mentioned as a knight for the King's Body in a grant dated July 18, 1486 (Campbell, i. 506). He seems to have been frequently employed in quasi-judicial business (ib. 386), cf. 'Paston Letters' (ed. J. Gairdner, 1875), iii. 332. He was High Steward of the University of Oxford, and held the University Courts (A. Wood, 'Fasti Oxonienses' [1790], being the appendix to the histories of the colleges, &c., pp. 71, 182). He sat, in his capacity of Privy Counsellor, as a judge in the Court of Requests in 1493-94 ('Select Cases in the Court of Requests,' Selden Society, 1898, pp. cii, civ, cvi, cviii). For other incidents of his career see 'Dict. Nat. Biog.'

wherunto your saide Oratoure is agreed, and how be yt that youre saide Oratoure hathe offred sufficient surete to the saide Erle for his body to be forthe commyng soo that he may bryng evidences and proves to prove such matirs alledged by hym and his Counsell afore the saide Justices for his discharge of the premysses, the saide Erle wolle no such surete take but kepith youre saide Oratoure yn his saide place at his pleasure and delayeth and defarryth the saide matir and wolle not apply hym to haue the trouthe therof knowen but entendyth to defarre the matir tille the saide sir Reynolde Bray be departed⁷ and than to kepe your saide Oratoure stille yn warde tille the terme of seynt michell next commyng or lengar, orelles by suche duresse to compelle hym to make Fyne with the saide Erle at his pleasure not oonly that but also hathe entred yn to the landes of youre saide Oratoure, and takyn the Rentes of his Farmours, and hathe seased and takyn parte of his goodes to his grete enpouerysshement,⁸ And also Thomas Erle of Surre,⁹ Thomas lorde laware,¹⁰ the Reuerent Fadir yn god, Edward Bisshopp of Chichester,¹¹ and dyuers other clayme yn lyke wise your saide Oratoure to be warde to them, and the saide Thomas Erle of Surre hathe takyn a suytte ayenst hym And forasmoche as your saide Oratoure is yn suche a Warde and kepyng, howe be yt that he be of sufficient age to answer and defende the saide suyttes¹² and of right ought to be discharged of them, he neyther can ne may defende them accordyng to his right, by cause of the saide reteynyng yn warde, and soo he is vtterly vndone remedylesse¹³ onlesse that your

⁷ This may possibly afford us some clue to the date of the petition. Both Sir R. Bray and the King are about to leave London, the King upon a 'progress and journey' (p. 96). At the beginning of May 1500 Henry 7, to avoid the plague in London, set out for Calais, where he remained until the end of June (Hall, 'Chronicle' [ed. 1809], p. 491, on which alleged connexion between the plague (sweating sickness) and the journey see W. Busch, *König Heinrich 7* (1892), p. 370). The words 'and journey' may be mere pleonasm, but they may also indicate that something more than an ordinary progress was in contemplation. It is apparent from the language of the petitioner that the return of Bray, who, as knight for the Body, would naturally accompany the King, was not expected to be speedy.

⁸ See *Intro.*, pp. cxvi, cxvii.

⁹ Thomas Howard, afterwards duke of Norfolk, b. 1443, d. 1524. See 'Dict. of Nat. Biog.'

¹⁰ Thomas West, K.B., eighth baron de la Warr, d. 1525. See 'Dict. Nat. Biog.'

¹¹ Edward Storey, bishop 1477-1503. See 'Dict. Nat. Biog.' The see had numerous manors and fifteen manor-houses or castles in Sussex, but it does not appear in respect of which of them the bishop advanced this claim. For a list of them see Elwes and Robinson, p. 4 n.

¹² 'The writ de custodia terræ et hæredis lieth where the tenant holdeth of his lord by knight's service and dieth in his homage and a stranger entereth into the land and taketh the body of the heir' (Fitzherbert, 'Nat. Brev.' [9th ed., 1794], ii. 139). 'And it appeareth by the register that the guardian in socage shall have the writ of right of ward of the heir alone, or of the land alone, or of both.' *Ibid.*

¹³ This allegation agrees with the plea in the replication that John Goryng, the grandfather, did not hold by knight service. If the petitioner were a tenant by knight service, his infancy would not cease till he was twenty-one years of age. Although in

gracious pite and comforte to hym be shewed yn this bihalve. Wherfor that yt may please youre Highnesse of youre moste habundant grace, thise premyssis considered,¹⁴ to do calle in examinacion before you and your moost honnourable counseill at suche day and place as it shal please your grace to appoincte in this your progresse and journey⁷ the said matier, And that your said Oratoure may be forth commyng vpon suffisaunt suretie to be made vnto the said Erl of Northumberland to pursue his defens and discharge in the premisses and therupon to abide suche furthre direccion as to youre said Hyghnesse and your said counsaill shalbe thought most according to your lawes ryght and good conscience. And he shal pray contynuelly for your most noble and Royal estate.

- B. This is the Aunswere of Harry¹ Erle of Northumberland to the bill of complaynt of John Goryng.

The seid Erle seyth that trew it is that he hath claymed and also seased the seid John Goryng for his warde as lawfull is for him for that oone John Goryng Grauntfader to this Complaynaunt held of the seid Erle as of his honour of Petworth within the Shere of Sussex

Bracton's day the law allowed infants to sue and be sued (Bracton, 253 b; cf. P. and M. 'Hist. of English Law,' ii. 438 fol.), Fitzherbert lays it down that at common law infants could neither sue nor defend, except by guardian (N. B. 27). The plaintiff here asserts that he was of age to defend. He must, therefore, have claimed to be an heir in socage, who at fourteen was out of ward. Coke 'upon Littleton,' 78 b, cf. Bracton, f. 86 b.

In the thirteenth century the practice of retaining the heir who was under age in custody, and enfeoffing others of his land, was so common that the Statute of Westminster I. (c. 48) was passed in 1275 to suppress it. By that statute it was provided that where a guardian, or any chief lord, detained an infant in ward and alienated his land, anyone might sue out an assize of novel disseisin as prochein amy. The Statute of Westminster the Second extended this to actions in all cases where infants were elaigned (si hujusmodi minores elongati sunt). A constructive eloignment seems to have been inferred for the benefit of infants, so that Fitzherbert and Coke lay down the proposition that an infant shall sue by prochein amy. A learned discussion as to whether they intended to exclude suit by guardian may be found in

Hargrave and Butler's note to Coke 'upon Littleton,' 135 b. The punishment of the offending guardian was loss of the wardship and of the custody of the land alienated (Stat. cit. Cf. Coke, Inst. ii. 260). In this case, if the earl claimed plaintiff as his ward and prevented his taking legal action for the possession of his land, semble he was constructively within the Statute of Westminster I. Sed qu.

If the plaintiff was of legal age as a tenant in socage, he was not within the protection of the Statute of Westminster I. But he had a remedy in the action for false imprisonment, a form of action of trespass (Blackstone, 'Comment.' bk. v. ch. viii.). 'Every confinement of the person is an imprisonment, whether it be in a common prison, or in a private house,' &c. See Fitzh., N. B. f. 86, 88, sub Writ of Trespass.

¹⁴ From this point to the end in another ink, apparently written over an erasure.

¹ This being one of the rare cases of a double Christian name in the fifteenth century, it is to be noted that only one is used in this formal pleading. For the subject of double Christian names in the Middle Ages, see 'Notes and Queries,' 9th ser. vi. 217, and 'Furnival's Inn, Principal of, v. Johnson,' p. 238, n. 9; also p. 206, n. 37.

dyuers parcellis of grounde bi knyght seruice² and died in his homage³ after whoos dethe alle the seid parcellis discendid to the seid complaynaunt as Cosyn⁴ and heire to the seid John Goryng that is to say son of John son of the seid John the Grauntfader. Withowt that the seid Complaynaunt hath eny mater of trewth which will avoide the seid wardship⁵ And without that euer the seid Erle sithe the first seasour of the seid John Goryng kept him otherwise than bi the lawe of the land a ward for his sauffe keypyng moght lawfully be kept.⁶ And where the seid Complaynant seiyth that the xamynacion of the seid mater was comytted to ij of the Kynges Justicez which was m^r Wood⁷ and M^r Tremaille⁸ and thei to make Report to m^r Bray Therunto the seid Erle seith That according therunto the Councell of the seid Erle with all diligence to theym possible Attended uppon the seid ij Justicez and before them had dyuers & meny metinges and communications at all the which and euery of them the seid Complaynaunt was there with his Councell personally him self

² 'Tenure by homage, fealty, and escuage is to hold by knight's service (per service de chivaler), and it draweth to it ward (gard) mariage and reliefe,' Littleton, § 103. A knight's fee consisted of at least twelve ploughlands, a quantity so variable as to amount to any area between 680 and 1440 acres. See Coke 'upon Littleton,' 69 a. See further id. Inst. ii. 597, where Coke discusses the values set upon a knight's fee at various times. The smallest parcel of land might be held by knight service.

³ Homage did not necessarily imply tenure by knight service. Littleton says of it: 'Homage is the most honorable service and most humble service of reverence that a frank-tenant may do his lord' (§ 85). Neither did the homage due to the earl necessarily exclude the homage that might be due to other lords for other lands. Bracton (f. 79 b) says: 'Item poterit quis de pluribus tenementis plura facere homagia, vni domino simul vel successive, vel diuersis & pluribus, et sic poterunt plures domini plura capere homagia ratione plurium tenementorum dum tamen unus ex pluribus dominus sit praeceptus & legitimus quia feoffator primus & propter primum feoffamentum & capitale. Et talis semper habebit maritagium heredum, propter primum feoffamentum.' But the *Leges Henrici Primi*, c. 43, § 6, solve the question on a different principle. 'Ei magis obnoxius est et ejus residens esse debet cuius legius est' (Schmid, 'Gesetze der Angelsachsen'). Similarly the 'modus faciendi homagium' in Statutes of the Realm, i. 227, of uncertain date, gives the unconditional form of homage as the due of the

lord, 'de qi il tient son chief mesuage.' It is obvious that Bracton's rule belongs to a date when written evidences were more readily available to determine the primum feoffamentum. The other lords only received a conditioned homage 'sauve le foi que jeo doy a nostre seigneur le Roi & a mes auters Seigneuries.' The principal messuage of the Goryngs appears to have been at Burton or Bodecton. See *Intro.*, p. cxix.

⁴ 'In legal language formerly often applied to the next of kin or the person to whom one is next of kin, including direct ancestors and descendants more remote than parents and children.' Here taken as = Latin *consanguineus*. J. A. H. Murray, *Engl. Dict. s. v.*, where see examples.

⁵ See A, p. 97, n. 13, *supra*.

⁶ See *Intro.*, p. cxv, *supra*. Cf. Bracton, f. 87: 'Heredes autem quamdiu fuerint in custodia pro quantitate hereditatis honorifice exhibebunt' (i.e. domini capitales). Except on the score of detention, there is no distinct allegation to the contrary made by the plaintiff against the earl.

⁷ Thomas Wood, appointed a judge of the Court of Common Pleas, November 24, 1495; promoted to be Chief Justice of the same court, October 28, 1500, and presided there till his death, which occurred within two years, in the vacation between Trinity and Michaelmas Terms, 1502. See E. Foss, 'Judges of England' (1857), i. 80.

⁸ Thomas Tremaille or Tremayle. 'His promotion as a justice of the King's Bench took place on July 16, 1488, and there is evidence in Keilwey's Reports of his acting as late as Hilary Term, 1507,' id. ib. p. 77.

before which Justicez the whole matyr of both the parties Was playnely declared And when the seid Complaynaunt perceived bi the seid ij Justices that thei wold haue made report to m^r Bray of the seid matyr what thei thought resonable in the same then he labored the kinges grace to bring hit bifore him and his Counsell in so moche that the seid Complaynaunt seid openly to diuers credibill persones when the seid Justicez had the mater in examynacion that he wold finde a prick⁹ wherby the hondes of the seid Justices shuld be closed as in that matir And not withstandyng that the seid Erle is heneretabill¹⁰ to the Comen law of the lond and this is matir which is clerely determynabill bi the same¹¹ for eny thing that is conteyned within the seid bill of complaint yet the seid Erle is well aggreabill that the seid matyr shall be examyned bi the kinges moste honorable Councell so that it may be doone withouten delay For the seid Complaynaunt as he seith him self shalbe at his full age at Mighelmasse next comyng And as to that the seid Complaynaunt desired to go vnder suerte the seid Erle seith as his lerned Councell hath shewid him thei haue neither redde ne herd that a Ward shuld go vnder suertie¹² Wherfor as in that bihalfe the seid Erle trustith he shal not be dealed with otherwise then other of the kinges subiectes haue been in cases lyke in tyme past. And as to the entre in to the londes of the seid complaynaunt and taking of the Rentes and his goodes therunto the seid Erle saieth that after the deth of the seid John Goryng the grauntfadre the seid Erle entred in to all the londes which the seid John Goryng the Grauntfadre held of the seid Erle by knyght seruice the tyme of his deth by cawse the said Complaynaunt his next heire was then and yet is within thage of xxj yerys And at the next daies of payment toke the Rentes of all the seid londes of such persons as were aggreabill to hold the seid londes of the seid Erle¹³

⁹ The word is written 'prik' with a ^α mark of abbreviation over it. In the replication it appears as 'prink,' 'priuk,' or 'pruik,' probably the first; but I find no authority for it. 'Prick' means a skewer, and I incline to think that is the meaning here, and that the plaintiff boasts that he would fasten up the justices' hands as a skewer trusses a fowl.

¹⁰ Inheritable, i.e. entitled to enjoy as his birthright; cf. W. H. Turner, 'Select Rec. Oxford' (1880), 38: 'Put from the benefite of the lawes of the Realme whereunto they be inheritable' (1523). J. A. H. Murray, 'New Eng. Dict.' s.v.

¹¹ That is, another of the claimants to wardship in knight service could have a

writ de custodia terræ et hæredis which 'lieth where the tenant holdith of his lord by knight's service and dieth in his homage and a stranger entereth into the land and taketh the body of the heir; the lord of whom he holdeth' the land shall have a writ of custodia terræ et hæredis, &c. (Fitzh. N. B. [ed. 1794], ii. 139). 'It appeareth by the register that the guardian in socage shall have the writ of right of ward of the heir alone, or of the land alone, or of both.' *Ib.*

¹² See *Introd.*, p. cxv.

¹³ In his replication the plaintiff suggests rather than states that some of the tenants were evicted. See *Introd.*, p. cxvii.

as londes beyng in his Warde And also the seid John Goryng the Grauntfader tyme of his deth held of the seid Erle viij seuerell porcions of lond For euerych of the which the seid Erle owght to haue by deth of his tenaunt a mownter and a heryott¹⁴ as it playnly apperith by the Custumarys of the seid Honour which haue been shewid to the seid ij Justices and are redy to be shewid to youre good lordshippis when ye will comaund And so for part of the seid heriottes and mownters the seid Erle toke vj Oxen and a hors all which were the goodes and catellys of the seid John Goryng the Grauntfader the tyme of his deth with owt that the seid Erle toke eny Rentes or goodes of the seid Complaynautes or entred in to eny of his londes in any other maner then by the seid Erle is allegged And where the seid complaynaunt alleggeth that he is claymed to be in ward by dyuers other persons as by the Erle of Surrey the lord lawarre and the buyshop of Chichester therto the seid Erle seith that that is oone of the speycell cawses for the which he hath kept him in his owen possession for that none of thoes rehercid lordes shuld be possessid of hym¹⁵ And put the seid Erle to his Accyon¹¹ And moreouer where it is alleggid by the seid Complaynaunt in his seducyous¹⁶ & sclaunderous bill that the seid Erle did kepe hym in dures to thentent he shuld be compellid to make fyne with the seid Erle at his plesour Therto the seid Erle saith that he hath at all tymes aunsured bothe by hymself and by his Councell when the seid Complaynaunt offered the seid Erle at London xx¹¹ for a pleasour that he wold not take oone peny of him Except his right were tryed good Wherfore hit apperyth that the seid bill is vntrewe and made oonly to the grettist disclaunder of the seid Erle Wherfor and in consideration that the seid Erle is oone of the Nobyll Perys of this realme he besechith your good lordshippis that the seid Complaynaunt for his seid sclawnderous bill may be punysshed in example of other according to the moste honorabill lawes and statutes in like cases

¹⁴ The word 'mownter' appears to be ἀπαξ λεγόμενον, and suggests a corruption of 'mortuarium' or 'mortuary,' in association with which the heriot is found. 'Debentur domino (i.e. manerii) nominibus herietta & mortuarii duae vaccae' (W. Kennett, 'Paroch. Ant.' ii. 101). The earl's statement of defence shows that the heriot claimed was not in respect of the land held by knight service, but of other land. As a matter of fact, heriots were generally paid by villeins rather than by free tenants, a point on which Britton (ii. 51) and Fleta (p. 212) insist. But the Laws of Canute (c. 71) show that originally heriot was pay-

able by thegns (Schmid, 'Gesetze der Angelsachsen' [2nd ed. 1858], p. 309). Bracton says: 'Herietum . . . scilicet ubi tenens, liber vel servus, in morte sua respicit dominum suum de quo tenuerit, respicit de meliori auerio suo vel de secundo meliori secundum diversam locorum consuetudinem.' He adds that it is a payment 'magis de gratia quam de jure' (f. 86). For the different meanings of heriot, see P. and M. 'Hist. Eng. Law,' i. 298.

¹⁵ See *Introd.*, p. cxiv.

¹⁶ Seditious. Lat. *seditiosus*, quarrelsome, see p. 140, n. 11.

ordeyned and prouyded.¹⁷ All which maters the seid Erle is redy to prove as youre moste honerabill Lordshippis shall thynk most reasonabyll.

c. This is the Replicacion of John Goryng to thanswere of the seid Erle of Northumberland.

The seid John saith in all thinges as he said in his firste bill of Complaint, And where as the seid Erle saith in his seid Awnswere that oone John Goryng grauntefadere to the seid John was seased of certen londes at tyme of his deth holden of his honour of Petworth in the Countie of Sussex bi knyghtes servise and died in his homage

¹⁷ The earl invokes the statutes 2 Ric. 2, st. 1, c. 5 (1378) and 12 Ric. 2, c. 11 (1388). Of these the first was an Act amending the Statute of Westminster I. (1275) c. 34, by which imprisonment was made the penalty of the dissemination of tales in slander of the great men of the realm until the original inventor of the slanders should be produced ('jesques a tant que il eit trove en court celuy dont la parol serra move'). This was re-enacted by the statute of 1378. Neither of these statutes appoints any punishment for the original deviser of the tales. According to Coke, 'he is left to the common law to be punished by fine and imprisonment,' 2 Inst. 228. The Act of 1388 gave a statutory sanction to much of the power exercised by the King's Council in the provision that the inventor as well as the spreader of false news 'soit punis par advys du conseil.' The offence was known as *Scandalum Magnatum*. The earl was therefore within his statutory right, if this were a case before the Star Chamber as a court of the King's Council, in asking for punishment of the offender. Sed quaere, if this were a case before the Star Chamber, and the Star Chamber were a Court originating with the statute 'Pro Camera Stellata.' The charge was, in brief, false imprisonment with intent to extort money. Coke, after stating that a man would be exempt from the penalties of the statutes who charged felony, even though falsely, against a peer in the courts of Common Law, on the ground that 'men should not be deterred to take their remedy,' adds 'and so it is, if in the Star Chamber a peere of the realme be charged with forgery, perjury, or the like; but if in the bill the plaintiff chargeh him with felony, or any other offence not examinable in that court, that slander is within these statutes, for that the plaintiff pursueth not his charge in

any judiciall course, seeing the court hath no jurisdiction of the same, and so hath it been adjudged,' Inst. ii. 228. Forgery was only a misdemeanour at Common Law, J. F. Stephen, 'Hist. of the Criminal Law' (1883), iii. 180. Perjury was merely a spiritual offence (ib. p. 243), but was held to be punishable by the Star Chamber under the Act 'Pro Camera Stellata' (3 Hen. 7, c. 1), which incidentally mentions the increase of perjuries (Stephen, iii. 244). The Star Chamber Act recites the evils arising from maintenance and other misdemeanours, with none of which this case is concerned, as being 'to the encreas of murders roberies perjuries and unsuerties of all men lyvynge and losses of their londes and goodes.' Stephen considers that the Star Chamber held this incidental mention as authorising it to punish perjury, 'though the words seem not to bear that interpretation.' He adds: 'It certainly did not authorise them (the Court) to punish murders or robberies.' Nor, I may add, forgeries. I incline to the view that the Court of the Star Chamber arrogated the power to punish perjury, not as one belonging to it by the statute, but in virtue of being a court of the King's Council, which seemed to regard as one of its principal functions the provision of remedies in supplement of the common or statute law, where those laws were defective. In the case of *Devonport v. Symson*, Cro. Eliz. 520, being an action for perjury, Walmsley, Beaumont and Owen, J.J., were of opinion that the action did not lie, 'for at the common law there was not any course in law to punish perjury; but yet before the statute of 3 Hen. 7, c. 1, the King's Council used to assemble and punish such perjuries at their discretion.' It is observable, too, that the pleadings before the Star Chamber frequently declare that the plaintiff has no remedy provided by law. It must have

Ther unto the same John Goryng saith by protestacion¹ that he knowit not that the seid John² Goryng his² Grauntfadre held any londes of the seid Erle within the seid Countie of Sussex bi knyghtes service nor no lawfull prove was made therof on the behalve of the seid Erle before the kinges most honorable Counsell nor ellis where nor yet that the seid John Goryng his grauntfadre died seased of any such londes in the homage of the seid Erle like as the said Erle pretendith and surmytteth in his said awnswere as the seid John now repliant thinketh he haith sufficiently shewed and proved by clere evidences aswell before the said Kinges Counsell as in other places where the matyr hertofore hath been in examinacion. And forthermore where the seid Erle saith that after the matyr was commytted to the examynation of m^r Tremayle and m^r Woode³ ij of the kinges Justicez his Counsell did theire best diligence to have the matyr bfore thaim herd to thentent the same Justicez shuld make Report to m^r Bray knyght for the Kinges moste honorabill body And that the seid John perceyving that the seid ij Justicez wold haue made Report to the seid m^r Bray as thaym thought resonabill in the cause he labored the Matyr to be removed before the king and his Councell The same John saith that if the seid Erles Councell wold haue made no delayes but haue shewed his title before the said Justicez so that thei myght haue made Reaport to m^r Bray before his departure from London⁴ he wold nevir

been as a court of the King's Council that it claimed, as Coke implies, to deal with *Scandalum Magnatum*. Among the mischiefs struck at by the Star Chamber Act, false imprisonment with intent to extort money is not included. If, therefore, this were a Star Chamber case, and the Star Chamber were confined strictly to its statutory jurisdiction, that Court could not, but the Council or the Common Law Courts could, punish a *Scandalum Magnatum* alleging false imprisonment, for the imputation against the earl when made in such a court was a gratuitous libel. But if Coke's language be interpretable as meaning that the Star Chamber could take cognisance of misdemeanors generally, as of forgery, then an accusation of false imprisonment brought before it was not punishable as *Scandalum Magnatum*, for it was a proper court in which to seek redress. As a matter of fact the Star Chamber did take cognisance of false imprisonment in Elizabeth's time. See *Buttle v. Harcourt* in 19 Eliz., where the defendant confined the plaintiff in stocks and in a cage, for which he was committed to the Fleet and fined 200*l*. (J. S. Burn, 'The Star Chamber' [1870], p. 73). It also

tried cases of forgery, e.g. *Kendall's case*, 3 July, 10 Hen. 7 (1494) (id. p. 78). It is doubtful, therefore, whether the earl could allege *Scandalum Magnatum* against the plaintiff, though the replication indicates that the plaintiff's counsel were uncertain of their ground. Hudson notices the great increase in this class of suit in the Star Chamber in his day, and says: 'All actions de scandalis magnatum are as properly to be sued in the Star Chamber as in any other court' ('Of the Court of Star Chamber,' p. 104).

¹ 'Protestation is a defence of safeguard to the party which maketh it from being concluded by the act he is about to do, that issue can not be joined by it.' Plowd. fol. 273, Cowel, 'Interpreter,' s.v.

²⁻² Interlined.

³ It is to be noted that in B the two justices are mentioned in the reverse order, which suggested that Wood, who was the junior as a judge, had precedence given to him because he was already Chief Justice of the Common Pleas, and this would date the case after October 28, 1500. The order in which their names appear here precludes the probability of this.

⁴ See A, p. 97, n. 7, supra.

haue labored the matir to be called before the Kinges Councell but only to haue byden the seid m^r Bray order and award Orellis if the seid John Goryng myght haue beene suffred to haue goone at his libertie uppon sufficient suertie⁵ to haue awnsverd to the seid Erle at the next terme which the said Justicez thought resonabill and according to the lawe and good conscience he wold nevir haue sued other reamydy And he saith that he nevir said nor thought to bring the said matir out of the said Justices handes by pryukes⁶ like as in thawnswer of the seid Erle it is surmytted but wold haue beene wele contentid to haue biden any direction that the said m^r Bray uppon theire report wold haue made And where the seid Erle Justifieth his entre in to the londes of the seid John and taking and perceyving of the Renthes of the same londes by reason that John Goryng grauntfadre to the said John now repliaunt whoos heire he is held the seid londes of the said Erle by knyghtes service and died in his homage the seid John being within the age of xxj yeres the same John saith as he hath aforsaid that he knowit not that the seid John his Grauntfadre held the seid Londes of the seid Erle by knyghtes seruyce nor yet that he died in the homage of the seid Erle And where the seid Erle saith that the said John Goryng grauntfadre tyme of his deth held viij seuerell porcions of londes of the seid Erle, of euery which parcelles the seid Erle ought to haue a movnter of⁷ a heryot & so for part of the seid heriottes or mownters the said Erle toke vj Oxen and a hors which was the goodes & catallis of the said John Goryng grauntfadre tyme of his deth The said John saith as is aforsaid that the said John Goryng grauntfadre died not seased of no such viij porcions of londes nor noone other holden of the seid Erle as the same John dyuers tymes hath said and shewed in the presens of the seid Erles Councell aswel by fynes recoueres and other dedes and munymentes prouyng the same And as to that which is allegged and showed in the awnswer of the seid Erle that the seid John shuld sedicyously and sclaunderously put yn his bill of complaynt that the seid Erle did kepe him in dures to thentent he shuld be compelled to make fyne with the seid Erle at his pleasure, The seid John saith that he nether put nor vsed no wordes in his bill of no seducyous mynde nor never entended to disclaunder the seid Erle but at al tymes hath endeavored hym to opteyne the good lordshipp of the seid Erle by al meanes to him possible his right said which wele aperyth by that the seid John wold haue youen⁸ the

⁵ See *Introd.*, p. cxv.

⁶ See B, p. 100, n. 9, *supra*.

⁷ *Sic*.

⁸ Archaic form of 'given.' See J. A. H.

Murray, 'Eng. Dict.', s.v. 'give,' A, 8. The 'y' represents the sound of the Anglo-Saxon ȝ. Cf. J. Gwilt, 'Anglo-Saxon Grammar' (1829), p. 2.

seid Erle xxⁱ for noone other cause but oonly to haue had his good Lordshipp. And the same John is and at all tymes shalbe ready to submytte hymselfe to the said Erle with as humble Requestes as he and his frendes kan or may make to haue his good lordshipp And the cause why the seïd John saied in his byll that the seïd Erle kept him in dures to thentent he shuld be compelled to fyne with the said Erle was for that the seruantes of the seïd Erle often tymes awnswerd the seïd John that he shuld not speke with such of his frendes as he desired to speke with without hit were to fall to an ende with the seïd Erle, And also the seïd John iij daies after that he was seased bi the said Erle cowde not be suffered to speke with noone of his frendes nor afterward by long tyme without that oone of the seïd Erles seruantes shuld stand by and here what shuld be said which was not convenyent nor resonable whan that the Pryvite of the evidences of the seïd John shuld be shewed Which causes and other caused the seïd John and his Councell to thynk that so streight keypyng was to thentent to make hym the rather to applye to the seïd Erle ⁷ mynde & also where the seïd Erle saith that the tenauntes of the seïd John shuld pay rent to the seïd Erle and were aggreable to pay the seïd Rent as for londes beyng within the Warde of the seïd Erle Therunto the seïd John Goryng saith that the tenauntes that he hath supposed in his awnswer that paid him the seïd Rent were compelled bi coercion of distresse and by vncurteys & vnlauffull demeniours of the officers of the seïd Erle. Without that that thei paid hit in any other fourme Which proveth wele in that as ijⁿ ⁹ of the tenauntes of the seïd John sithen the seasour of the seïd Erle beene departid from their fermys.¹⁰ Alwhich matiers the seïd John haue beene and yet is ready to proue as your most honorable lordshippis shall think most resonable.

Indorsement illegible.

⁹ Twain.

¹⁰ See Introd., p. cxvii.

JOYFULL *v.* WARCOPE.¹A.²

To the king our soueraign lord

1500 In humble Wyse compleynen to youre most noble grace your feithfull Subgiettes and true ligmen Richard Joyfull John Mercer of Warcoppe in your Countie of Westmerland yomen, Gabriell Warcoppe, Thomas Mosse theldre Robert Gibson and Robert Mosse of the same yomen. That where your said besechers were in godes peas and yours, Oone Robert Warcoppe theldre of Warcoppe,³ Robert Warcoppe the yonger,³ and other Riottours and mysruled people, to the Numbre of liij persons and moo, the xiiijth day of the Moneth of Octobre last past,⁴ with force and Armys, That is to sey, With Bowes, Arrowes, Bylles,⁵ Swordes, and Bokelers At Warcoppe forsaide in the Countie of Westmerland riottously assembled made Assault vppon your said besechers, And there bett wounded and putt in Jeopardie of theire lyves without occasion on theyre parte gevyng to the great perill of your said besechers And to the worst exemple of other lyke offendyng, Onlesse due punysshment be had for Reformacion of the premisses. In consideracion wherof, And that youre said pover subgiettes myghte there lyve in godes peas and yours, soueraigne lord, that it myghte please your moost noble grace to graunt to your said besechers your gracious lettres of priue Seal to be directed to the said mysdoers Commaundyng theym by the same tappere before your highnesse and your honourable Counsaile At A day by youre grace to be lymytted And to bryng with theym such other of the said offenders As shal like youre grace to aunswere to the premisses And therein ferther to doo and Receyve afre theyre demerites As shal accord with Right and good conscience And your said besechers shal pray to god for the preseruacion of your moost noble estate in yoy long te(ndure).⁶

¹ S.C.P. Hen. 7, No. 63. See p. 253, *infra*.

² This is probably the original bill of complaint, while that to which B and C are answers, and which alleged contempt, is missing. It is plain that it is only a draft, being struck through in contemporary ink, and it will be seen that the answer B, though

it relates to the same events, is to a petition by two of the plaintiffs only.

³ See Byland, abbot of, *v.* Warcoppe, p. 256, n. 7.

⁴ I.e. 1499. See F, p. 113, *infra*.

⁵ See *Walterkyn v. Letice*, p. 165, n. 5.

⁶ MS. torn.

B.¹ Thaunswer of Robert Warcoppe thelder Robert Warcoppe the younger Gabryell Warcoppe² Thomas mosse thelder² Robert Gybson² Robert mosse² yoman John Elwald and Christofer Thompson to the byll of Compleynt of Richard Joyfull & John merser.

The seid Robert Warcoppe thelder Gabryell Warcoppe & Robert Gybson seyen and euery of theym seyith That as to any Riott Assemble assaute woundyng betyng or any other vnlawfull demenyng supposed by the seid byll to be done they ar therof nothyng Gyltye And prayen ther resonable Costys for ther wrongfull vexacion yn this behalff And the seid Robert Warcoppe the younger John Elwald & Cristofer Thompson seyen and euery of theym seyith That the seid Richard Joyfull Bayly of Warcoppe³ John merser Gylberd mossegraue Richard Richardson John Collen Millys Waller Thomas Merser Robert Sympson Robert Stedman William Stedman William Drybeke Robert Lambert William Stoddart and John Stanton acompanied with dyuers other Riottuse personys vnknownen to the number of xl arrayed in maner of werre That is to sey with Salettes⁴ Swordys Bucclers byllys⁵ and Clobbys⁶ assembled to gyder the xiiijth day of October the yere of the Reyng of oure Soueraigne Lord the kyng that now is the xvth ⁷ att Warcoppe aforeseyd withyn the franchises and lybertye of the abbott of Byland with greate violence in maner of new Insurreccion⁸ toke & drave away xx^{ti} oxen kyen and Calues wherof ij of theym were belongyng to the seid Robert Warcoppe the younger and the residew were belongyng to the tenauntes & Inhabitauntes of the seid lordshippe of Warcoppe without Cause resonable or any sufficient auctoryte yn the lawe and by ther myght strength and wilfull powar dyd withold & kepe the same Bestys and the seid Robert Warcoppe the younger John Elwald Christofer Thomson & oone William myrthwayte folowyng & pursuyng the seid Riottuse personys to thentent to haue delyuere of the seid Bestys

¹ The bill of complaint is lost. See note 2 to A, *supra*.

² Plaintiffs in draft A, *supra*. Apparently Gabriell Warcoppe had gone over to the side of his presumable kinsmen, followed by Robert Gybson and the elder and younger Mosse.

³ In the service of Richard Nevill, Lord Latimer, lord of the manor, as appears in F, *infra*. See further Byland, Abbot of, *v.* Warcoppe, p. 256, n. 7.

⁴ 'In French "salade," a light head-piece sometimes worn by the cavalry, but generally by the infantry and archers. It had sometimes a visor, either fixed or

movable, and sometimes grates, but was generally a steel cap greatly resembling the morian' (S. R. Meyrick, 'Antient Armour,' iii. Glossary, s.v.). Representations are engraved in J. Skelton, 'Antient Arms and Armour' (1830), ii. plates lxxiv., lxxvi.

⁵ See *Walterkyn v. Letice*, p. 165, n. 5.

⁶ See *ib.* B, 167, n. 2, and *Eynesham, Abbot of, v. Harecourt*, C, p. 160, n. 26.

⁷ 1499.

⁸ This appears to be a common form, but I have not been able to discover the precise legal significance of 'new.'

ther demaundyd why and for what Cause they hadde so taken the seid distresse praying theym yn lawfull maner to make theym delyuere of the same for asmoche as they cowde shew noo lawfull auctorytye for the takyng of the same, Which aunswered and seyde that ther master Edward musgraue⁹ hadd commaunded theym so to doo whos Commaundement they wold execute who soeuer wold sey nay and the seid Robert Warcoppe the younger & his Companye folowyng &c.¹⁰

⁹ Apparently as lord of the neighbouring manor of Great Musgrave, about two miles south of Warcop. Edward Musgrave of Hertlay or Hartlay, Westmoreland, and Edenhall, Cumberland, was born in 1461, eldest son and heir of Sir Richard Musgrave (died 1491. Inq. p. m. Hen. 7, 693, 695. See also J. Nicolson and R. Burn, 'Hist. of Westmoreland and Cumberland' [1777], i. 594). He was knighted some time before December 10, 1505, for in a recognisance of that date he is described as Sir Edward Musgrave of Edenhall, Cumberland (S. P. Dom. Hen. 8, i. 296). He was nominated a commissioner of array for Westmoreland on June 20 and July 14, 1511 (ib. 1735, 1799), probably to raise men for the body of archers sent in July to aid Margaret of Savoy, Regent of the Netherlands, against Gueldres. In 1511, 1512, and 1514 he was in the commission of the peace for Westmoreland (ib. 2009, 3048, 3552, and 5506), and again a commissioner of array in 1512 (ib. 3358). On March 14, 1515, he was nominated on the commission of the peace for Northumberland (ib. ii. 249). He was pricked sheriff of Cumberland in 1514 (P.R.O. List of Sheriffs), 1519 (S. P. Dom. Hen. 8, iii. 500) and 1527 (ib. iv. 3581). In 1524 (February 10) and 1525 (August 11) (ib. iv. 137, 10, and 1610, 11) he was nominated on the commission of the peace for Westmoreland. While sheriff of Cumberland, in March, 1528, a Scottish prisoner of some note, named Riche Grahame of Esk, escaped from his custody in the castle of Carlisle. Sir Edward and his son Sir William were accused of connivance and indicted. The Grand Jury disagreed and the bill was lost (ib. iv. 4134). He apparently vindicated himself and his son to the satisfaction of the Government, for on October 9, 1530, his son, Sir William, obtained an annuity of 20 marks (13*l.* 6*s.* 8*d.*) out of the Lordship of Penreth, Cumberland, during his father's lifetime (ib. 6751, 3), and Sir Edward was on March 5, 1531, nominated on the commission of the peace for Westmoreland (ib. v. 166, 16). He was foreman of the Grand Jury which found a true bill against Lord Dacre of the North (June 15,

1534), notwithstanding the fact that a principal charge against Lord Dacre was one of conspiracy with the Scots to kill his son, Sir William Musgrave, Constable of Bow or Both Castle (Bewcastle) [ib. vii. 962]. Lord Dacre was afterwards acquitted by his peers, and Sir William Musgrave, who had been his chief accuser (ib. 829), fell into disfavour both with his father and with the Duke of Norfolk, who, as Earl Marshal, had presided at the trial (ib. 1647). These events led to feuds and riots in the North, where the great landowners, assured of Dacre's condemnation, had begun to despoil his estates. Among them Sir Edward Musgrave was bound over by the Earl of Westmoreland, upon Cromwell's orders, to keep the peace (July 13, 1535, ib. viii. 1030, cf. ib. vii. 895), his servants having a chronic feud with those of Sir Thomas Wharton (ib. viii. 1030, 1046; xii. ii. 422). But he remained on the commission of the peace for Westmoreland (ib. viii. 149[82]). Upon the outbreak of the Northern Rebellion in October 1536, the insurgents marched to Sir Edward Musgrave's house at Edenhall and administered to him and his household an oath of adhesion to their cause (ib. xii. i. p. 303). That Sir Edward was not suspected of complicity is evident from the fact that he reappears in the commission of the peace for Westmoreland in March 1537 (ib. 795, 4, and ib. ii. 1311, 29), and he was ordered for the security of the borders to lie in Harteley Castle (ib. ii. 2493, ii.) The commission for the inquisition post mortem was issued May 12, 1543, for Cumberland (ib. xviii. i. 56). He married in 1484 Alice, daughter of Sir Richard Ratcliff, of Ledbury (Marriage Licences, Surtees Soc. 1864. Test. Ebor. &c., vol. xlv. p. 348), and in 1496 Joan, daughter of Sir Christopher Ward (ib. p. 360).

¹⁰ Continues as C, except that 'and William Morthwayte' is omitted, as also the clause beginning 'And the seid Thomas mosse . . . affray,' for which is substituted 'And the seid Robert mosse and Thomas mosse came then only for the Ryddyng of,' &c.

- c. Thaniswer of Robert Warcoppe thelder Robert Warcoppe theyounger John Elwald Thomas Mosse thelder Robert mosse John Patenson John Ranwicke Christofer Thompson John Style William morthewayte John Wryghtson Richard Soukemañ Robert Haton Thomas mosse theyounger John mosse & John Scott to the byll of Compleynt of Rychard Joyfull & John mercer.

They sey & euery of theym seyth that the seid byll is insufficient & vntrew & of malice fayned to the sclaunder vexacion & troble of theym & of euery of theym. Without that they or any of theym ar gyltye of takyng or impoundyng of any Catall of the seid Complaynautes att warcoppe aforeseid in maner & fourme as is supposid by the seid bill of Compleynt and without that the seid Robert Warcoppe thelder ys gyltye of any Riott or of any other vnlawfull demeanyng as is supposed by the seid bill. Neuertheles for the declaracion of the trothe The seid Robert Warcoppe the younger Robert Gybson John Elwald & Christofer Thompson Seyn and euery of theym seyith That one Thomas Abbott of Byland ¹ predicessor of the Abbott that now is ² was seasid of the maner & lordshippe of Blatarne ³ in his demesne as of fee as yn the Right of his Churche ⁴ to the which maner & lordshippe the seid Abbott & his predicessours haue hadd & vsed dyuers libertyes & franchises as retourne of all maner wryttes & execucions of the same and euery Retourne to be hadd & made by his Bayly for the tyme beyng at euery Sessions & assisses withyn that Shere holden and also haue vsed to hold all maner plees of Repleuyn withyn the same lordshippe and so seasid of the same maner & lordshippe gaue & graunted the seid lordshippe to the seid Robert Warcoppe thelder to haue to hym for terme of his lyeff yldyng therfor yerly to the same Abbott & his successours a certen Rentte Byforce wherof the seid Robert was seasid of the seid lordshippe yn his demeane as of frehold and afterward dyuers beestes were founde damagefesaunt withyn the frehold of the seid lordshippe of Blatarne, Wherfor one Robert Shawe then beyng Comen Pynder ⁵ for the seid Robert Warcoppe toke & impounded all Suche maner beestes ther founden damagefesaunt ⁶ withyn the seid lordshippe att the Comyn Pounce at Blatarne aforeseid and afterward the seid Richard Joyfvll John mercer and one

¹ In Dugdale's list of the abbots of Byland 'Thomas'—surname unknown—is given as abbot in 1478. 'Monasticon,' v. 345.

² John Farlington. See Byland, Abbot of, v. Warcoppe, A, p. 253, n. 3.

³ Now Bleatarn, about 1½ m. S.E. of Warcop.

⁴ See Byland, Abbot of, v. Warcoppe, A, p. 256, n. 8.

⁵ Impounder ('inclusor').

⁶ See Introd., p. cxx.

gylberd a⁷ mussegrauē gentylman⁸ acompanyed with dyuers other Riottuse personys vnknownen to the number of xxij^{ti} defencible arraied in maner of werre with Brygenders⁹ Stele Bonettes Swordys Bucclers Clobbys & byllys The seid xiiijth day of October toke the seid Beestes out of the seid pounce and theym with violence myght & powar drave away without Shewyng or delyuere of any wrytt warrant or repleuyn or any other lawfull auctoritye wherfor the seid Robert Warcoppe theyounger John Elwald William morthwayte & Christofer Thompson folowyng the seid Riottuse personys to thentent to haue delyuere of the seid beestes mett with the seid misdoers att plowlondbodham¹⁰ within the seid fraunches then hauyng the seid beestes demaundid of theym why and by watt auctoritye they hadd taken the seid beestes praying theym yn lawfull maner to make theym delyuere of the same Which Aunswerd and seyde That they hadd executed Edward mussegraues Commaundement and that they wold reteyne theym wo so euer wold sey nay And the seid Robert Warcoppe the yownger & his Companye folowyng the seid Riottuse personys eftsonys¹¹ intreted for the deluyere of the seid distres seying vnto theym that they hadd broken the franchises of the seid abbott of Byland and that ther master woldnott avoue theym yn ther misbehauyng and so the seid Riottuse personys of ther owne will left the seid distres and the seid Robert theyounger & his Companye reseuyed the same distres and incontynent theruppon one Robert Sympson beyng yn Companye with the seid Riottuse personys Spake with open voyce, Fye, shall we suffer suche a lewde¹² & sympull Companye of iij or iiij personys to dreve away oure distres? Lett vs sett vppon theym and take oure distrees agayne. And forewith with greate violence all the seid Riottuse personys assaulted the seid Robert Warcoppe the younger John Elwald Christofer Thompson and William morthwayte and the seid Robert Warcoppe theyounger John Elwald Christofer Thompson & William morthwayte defended¹³ the seid Riottuse personys and so yff the seid

⁷ Observe the sign of the place name.

⁸ Probably a younger brother of Edward Musgrave. For the use of 'gentleman' as the style of younger sons, see 'Select Cases from the Court of Requests' (Selden Soc. 1898), p. 147, n. 4.

⁹ 'Brigander,' body armour for foot soldiers, originally armour for a brigand. It was also called 'brigandine,' and was composed of iron rings or small thin iron plates, sewn upon canvas, linen or leather and covered over with similar materials. Planché, 'Cycl. Cost.' See J. A. H. Murray, sub vv.

¹⁰ 'Ploughlands' is marked on the map about halfway between Bleatarn and Great Musgrave. Great Musgrave lies E. and Warcop N.E. of Bleatarn.

¹¹ A second time, again. This form of spelling is not noticed in Murray, qu. vid.

¹² Common, vulgar. 'The march-law, which is the statutes of Kilkenny, is said to be no law, but a lewd custom.' Davies, 'Why Ireland &c.' J. A. H. Murray, 'Eng. Dict.' s.v.

¹³ Warded off. Cf. Grafton, Chron. ii. 17 (1568), 'to withstand and defend his enimyes,' ib.

Riottuse personys or any of theym any harme hadde hitt was of ther owne assaute & yn defence of the seid Robert theyounger John Elwald Christofer Thompson & William northwayte, And the seid Thomas mosse thelder Robert mosse John mosse with other of the seid defendautes Commyng the day aforeseid frome ther devyne seruyce heryng of the seid assawte & affray Came to the seid Riottuse personys to thentent onely for the Riddyng of the seid assaute & fray & for the Conseruacion of the kynges Peace. Without that the seid defendautes or any of theym ar gyltye of any Riott or of any other vnlawfull demenyng oderwyse or yn any other maner then ys supposed by this aunswer, And as to the seid dysobeyans¹⁴ of the seid priuy seales they sey & euery of theym seyith that vppon ther examynacion ther shalbe founde yn theym no maner of Contempt ayenst the kynges grace nor his lawes. All which maters and euery of theym they ar redy to prove as this Courte wull awarde and prayen and euery of theym prayith to be dysmyssed with ther resonable Costes for ther wrongfull vexacion in this behalff &c.

Indorsed in modern hand. Joyfull v. Warcop & al.

D. The Replicacon of Richard Joyfull John Mercere &¹
Mercere to thanswere of Robert Warcoppe theldere Robert Warcoppe the yonger and dyuers othere &c.

The seide Richard & John seyen that their bill is sufficient, true & not feyned of malice for vexacion or troble as by the seide answere is supposid, And the seid Robert Warcoppe thelder & Robert Warcoppe the yonger & all other in the bill of compleint of the seid Richard & John Mercer specified be gilty of all suche Riottes vnlawfull inpoundyng of Catell and other mysdemeanours as in the same bill is alleggid. And the seide Richard Joyfull & John mercer seyen that they knowe noe franchis that the seide Abbote of Bilond hath at Blaterne in maner & forme as by the seide answere is supposid but the seid Richard & John Mercer seyen that suche Catell off theres as the seide Warcoppe thelder & Warcoppe the yonger & othere toke & distreyned they inpounded them at Warcoppe forseide withoute any lawfull cause soe to do for whiche Catell and for ony damages done by them yf they ony dide there was sufficient amendes offerid for them to the seid Warcoppes by the owne of the same Catell & othere,² And also

¹⁴ A form not noticed by Murray, who, however, gives the adjective 'disobeyant.' See further p. 106, n. 2, supra.

¹ Blank in MS. The missing name is Thomas. See p. 107.

² 'Dicere enim poterit captor quod iuste

cepit aueria sua quia illa inuenit in damno suo et secundum legem et consuetudinem regni imparcauit illa donec damnum suum ei esset emendatum et non alio modo. Bracton, f. 158.

sufficient Replevyn suyd for their delyueraunce,³ And that not withstanding they were still kepte in the pounce by the seid Warcoppes contrary to all right. And ouer this they seyen that at the day of the seide Riotte supposid & before the Ryotte comyttid & done the seid Richard Joyfull Baylly of the lordeshippe of Warcoppe John Mercere & othere distreyned other Catell of the seide mysdoers withyn the seid lordeshippe of Warcoppe for certen dutees by the owners of them due to the lorde of the seide lordeshippe⁴ & were comyng to the seid distresse in peasible manere towards the lordes pounce theire And the seid Riottours hauevyng knowlege therof riottously with force & Armes came & toke the seid distresse fro them and them then & there bete wounded & maheynd in maner & forme as by the seide bill of complaint is alleggid, the first distresse taken by the seid mysdoers then and after that beyng still in pounce by reason of their takyng aforeseide. Without that that the seid Abbot of Bylond hadde or hath any suche fraunchise in maner & forme as by the seide Answere is supposid, And withoute that that the seid Richard Joyfull John Mercere & other named with hym to the nombre of xxij persones or to any nombre be gilty of any Ryotte brekyng of any pounce⁵ or comyng in harnesse in maner⁶ And forme as by the seide Answere is supposid. And with oute that the seid Richard Joyfull or any of his company hadde any manere vnfittyng langage to the seide mysdoers And with oute that the seid Robert Symson hadde any such langage to the seid mysdoers in manere & forme as by their seid Answere is supposid, And with oute that the seid Richard Joyfull or any of the seide complaynautes made any assaute or Riotte vpon the seid mysdoers in manere & forme as by their seide answere is also supposid, And for as moche as none of the seide mysdoers with sey not the disobeyng of the firste privy Sealx to them delyuered but that they & euery of them confesse a contempte done to the kyng oure souereign lorde for the disobesaunce of his moste highe comandement in the same privy Sealx conteyned the seid complaynautes pray therfore that the seide mysdoers & disobeyers of the seid privy sealx may be punysshed Accordyng to there demerites in that behalfe. All which maters the seid Richard Joyfull & the seid John mercere bene redy to proue as

³ See Intro., p. cxx.

⁴ 'Si autem iusta sit captio videlicet pro seruicio detento ab aliquo qui seruitium illud cognoscit, tunc poterit ille qui capit cognoscere captionem illam, nec in tali captionem delinquit.' Bracton, f. 156.

⁵ 'If goods be distrained without cause, and impounded, the owner can not breake the pound and take them out, because they are then in the custody of the law.' Coke

upon Littleton, 47 b.

⁶ By the statute of Northampton, 2 Ed. 3, c. 3 (1328), it was forbidden to go or ride armed. In 1383 the Commons petitioned Richard 2 that the Act might be proclaimed in every county and enforced, to which the king assented. The plea of the plaintiffs in this replication is probably in view of that statute.

this Court wull Awarde & prayen in all thyng as they haue prayed in there seid bill.

E. The Reioynder of Robert Warcoppe thelder Robert Warcoppe the yonger and other to the Replicacion of Richard Joyfull & John mercer.

The said Robert Warcoppe thelder Robert Warcoppe the yonger and other defendauntes say in euery thyng As in there Answer is Comprysid And ouer that they say that After the said Richard Joyfull John mercer Gylbert musgraue and other hadd Riotously takyn the said Catall oute of the pynfold within the franchises of Blaterne Aforesaid as is Allayd¹ in the said Answer the said Joyfull mercer Gylbert musgraue and other Riotus persons to the nomber exprissid in the said Answer Ryotusly with oute eny cause toke certen catall within the said franchises of Blatern And theym forcybly drove oute of the said franchises to such tyme As the said warcoppe the yonger come in peassible maner and iij persons with hym, and desyred the delyuere there of in lawfull maner, vpon whame the said Joyfull mercer, Gylbert musgraue and other made Assaute in maner and forme As is alleggid in the said Answer. Withoute that eny lawfull Amendes was offerd by the owners of the said Catall So impoundyd And without that there were eny dewtes dew by the owners of the said Catall last takyn to the lord of the said Lordshippe or to ony other for which they myght of Right distreyne the said Catall And without that the said Warcoppe and other toke the said distres fro theym in Riotus maner And withoute that the said catall fyrst inpowndyd were styll in the pownd att the tyme of the Assaute & Affrey made vpon the said warcoppe & other. All which maters they er Redy to prove As this Court will Award And prayeth As they prayed in there said Answer.

F. Termino Pasche Anno regni regis xv^o.¹

Ricardus Joifull Johannes mercer Gabriell Warcoppe Thomas mosse senior Robertus Gibson Robertus mosse de Comitatu Westmerland contra Robertum Warcoppe seniore & Robertum Warcoppe Juniorem.²

Robert Warcoppe thelder sworne vpon this complaint depositth that he nether bete nether causid tobe bete, the day and place within declared

¹ Allay, the original form of the later allege.' Cf. p. 234, *infra*. See J. A. H. Murray, 'Eng. Dict.' s.v. Allay.

² May 6—June 1, 1500. J. J. Bond, 'Handybook of Dates.'

² It is to be observed that these are the parties as set out in A. Perhaps the solution of this puzzle is that this document was evidence taken by commissioners and returned to the Star Chamber, and that the

any of the complaynautes, nether was weting willing privye nether consenting there to. albe it of this deponentes houshold seruantes there were diuers that is to say Robert warcoppe the youner John Elwold, Christofoe Thomson, John Patynson and other mo which having knowlege that diuers seruantes & tenautes of the Lord latimer and of Edward Musgraves were come and breke vp the powndfold³ of the franchises of the abbey of biland³ and to take oute certaigne bestes that there were empounded for damage faysant vpon the ground of this deponent, went to a water side ouer which the said tenautes and seruants of the Lord latimer and Edward were comyng⁴ with the bestes that were empounded as is before said, and also other bestes of such as be now the defendantes⁵ and bade thaim leue the bestes behind thaim, and thei expresslie denyed so to do, and oute with thaire wepons and assaulted the said deponentes seruantes and if any hurt were then doone to any man there it was in thair owne assaulte, and not in⁶ blame of the defendantes. And this notwithstanding this deponent as he saith brought to Appulby at the next Sesshions such of his seruants as were at the said affray, where thei were bound and found suretie to the peax and the said persons making the said affray that is to say Richard Joifull and other be at thair libertie.

PYNSON & OTHERS v. SQUYER & OTHERS.¹

A. To the right Reuerend fader yn God my lorde Cardinall Archbisshope of Caunterburye And Chaunceller of Inglonde.²

1500 Lamentablye Compleynyth vn to youre Gode grace youre poore Oratourz and daily bedeman³ Rycharde Pynson⁴ Cornelys Johnson⁵ and Harre Wilson⁵ of the parish of seynt Clementes without temple

Court thereupon ordered a fresh plaint to be filed, which has disappeared, but to which B was the answer.

³⁻⁵ Interlined.

⁴ There follow, struck through, the words 'to come to the said pound and bade thaim come no more.'

⁵ There follow, struck through, the words 'and there the same persons.'

⁶ 'thair' struck through.

¹ S.C.P. Hen. 7, No. 94.

² John Morton, Archbishop of Canterbury, October 6, 1486; Chancellor, March 6, 1487; Cardinal, 1493; died October 12, 1500. 'Dict. Nat. Biog.'

³ Sic. The word is an obsolete form of beadsman, according to J. A. H. Murray ('Eng. Dict.'), meaning literally 'a man of

prayer,' here 'petitioner.'

⁴ The printer, a Norman by birth, not naturalised till 1513 (S.P. Dom. Henry 8, i. 4373). The colophon of his first dated book, 'The Dialogue of Dives and Pauper,' by Henry Parker (1493), states that he was living 'at the Temple-barre of London,' though he shortly alters this to 'dwelling without the Temple barre.' There he continued until the beginning of the sixteenth century, when he moved to the sign of the George in Fleet Street, continuing at that address till his death' (d. 1530), 'Dict. Nat. Biog.' He succeeded Caxton as printer to the King. Registers of Stationers' Company (Birmingham, 1894), v. lix.

⁵ Neither of these persons appears in the Registers of the Stationers' Company.

barre That where as they and theyre seruauntz the xxj daie of Aprill last past⁶ were yn God is peace an the kynges vn to the tyme that oone Harre Swquier Cordiner⁷ John Walker sadeler baillye of the Sauoye⁸ & John uikers Bocher dwellyn yn the seid parish of Seynt Clementes wyth yn⁹ the Countie of Middlesex accompanyed wyth diuers other Riouttos and euyl disposed personz to your seid suppliauntez vnkown to nombre of xl persons and aboue att x of the Clocke att nyght of the same daye ley yn a wayte⁹ of youre seide Complaynantz att the parish of seynt Clementes a fore seyde to thentent to haue moordred & slayn your seid suppliauntz and soo accordyng to their malicious and cruell entent they mett wyth youre said compleinantz and theym then & their wyth force and armes cruelluy and Riottusley assautyd and theym by force droue yn to their housez or elles they had bene slayn and att the same tyme and place maihed and hurte diuers of the seruantz of your seid suppliantz and the seid Riottourz then not content butt fett¹⁰ in forme¹¹ and other abilymentz¹² and wold haue broken vppe the doore of youre seid Oratourz and soo to haue executed their furder malicious and cruell purpose yf Gentill men had nott bene the which atthat tyme put theym from their purpose, And on the Wensdaye then next ensuyng the seid Riottours caused xv or xvj of their companye to lye yn awayte⁹ for the seruantz of the seid Richard Pynson yn flete stret yn london to thentent to haue muredred and slayn hys seruantz & so they mette wyth the same seruantz and theym then and their cruellye assaulted sore bete and wounded soo that they were yn great ieopardye of theyr lyuys and att the same tyme and place the seid Riottourz felonouslye toke away a Cloke and a shorte dager from on of the seid seruantz and haue solde the same Cloke to an vppeholester yn the parish of Seynt Thomas thapostell yn London¹³ yet moreouer att diuers tymys the

⁶ 1500.

⁷ Cordwainer. 'Originally in Spanish, Italian, and Old French a maker of or dealer in Cordovan leather; thence, in later French and the Teutonic languages, a worker in this leather, a shoemaker.' J. A. H. Murray, 'Eng. Dict.', s.v.

⁸ This person does not appear in the list of stewards or bailiffs given by W. J. Loftie, 'Memorials of the Savoy' (1878), pp. 82, 83. See further B, p. 117, n. 1, *infra*.

⁹ Await, an obsolete substantive, an ambush. Cf. Chaucer. Nonnes Pr. T. 405. 'Homicides. . . . That in awayte lyn to morthier men.' J. A. H. Murray, 'Eng. Dict.', s.v. See also pp. 37 and 243.

¹⁰ See p. 141, n. 12.

¹¹ Apparently not a printer's 'forme,' but

a bench. Murray (s.v.) gives an example of its use as a weapon from Fabyan's 'Chron.' vii. cccxii. 246: 'The munkes with fourmes and candelstyckes defended theym.'

¹² The usual form of 'habiliments' when in the sense of weapons of war, doubtless from the recognised connexion with able, ability, quasi 'things making able for war.' Cf. Gregory, 'Chron.' (Camd. Soc.), 145. 'All the abylymentys of werre . . . as welle pouders, gunnys, schott or othyr artyleres.' J. A. H. Murray, 'Eng. Dict.', s.v. Habiliment. Cf. also Furnivall's In, Principal of, v. Johnson & others, A, p. 239, *infra*.

¹³ In Knight rider Street, City. J. Stow, ed. J. Strype, 'Survey' (6th ed 1754), i. 531.

seid Riottourz (&)¹⁴ euyl disposed persons haue so manased and thretened the same seruantz of the seid Richard Pynsonz & putt theym yn such fer & perell of theyr lyuys that they durst nother goo to the Church to hire their dyuyne seruyce nor to (goo)¹⁴ owt of their maisters doorres to doo their maisters besynes for whych assautz and manassynge the seid seruantz bene departyd from the seid Richard Pynson & haue left ryghte greate besynez the whiche he hath nowe yn hande to be vndone to hys greate hurte and vtter distrucion. Also the seid Harrye Squier, John Walker, John Viker & other of their malicious & euyl disposed sect¹⁵ haue made great othys and promysys that their shall nother frenshman nor flemmyng dewell nor abide wythyn the seid parish of seynt Clementes and thus dailye and contenuellye the seid Riottourz manass your seid Oratourz & their seruantz so that they nother their seruantz dare nott goo aboute their lafull besynez to the vtter vndoing of your seid Oratourz. In Consideracion wher of please your grace to commaunde the seid Harrye Squeyer, John Walker and John viker to appeir be fore the kynges highnes and the lordes of hys moost honorable Councell att such tyme & pleast & vnder such certeyne peyne as by your grace shalbe lemyted to make aunswer to the premyssez and youre seid suppliauntz shall euer praie to all myghty God for your noble grace long to endure.

Indorsed. Termino Trinitatis anno xv¹⁶

Ricardus Pynson Cornelius Johnson & Henre Wylson contra
Ballium de Sabau[dia]¹⁷ Henricum Squier & alios.

- B. The Seuerall answherres of Herry Squyer Cordyner John Walker Bayly of Sauoye & John Vykers Bocher to the Byll of Compleyntes of Richard Pynson Cornelys & Herry Wylson.

Thei sey that the seid Byll of compleynt is insufficient vncerten & vntrue & onely Imagined of malice without ony true grownd or cause resonable to thenthent to vexe & trouble the seid Herry John & John ageyn all right & good Conciencie and furthermore thei sey that thei ne none of theym ner eny oder by theirre procuring or sterryng be not in eny thyng gylty of eny ryott assemble felony mayme ore of eny oder mysdemeanour offence or wronge in maner & fourme as is surmytted by the seid byll of compleynt and the seid Herry seith that he the same nyght immediatly after the fyrst Ryott supposed

¹⁴ Conjectural; MS. torn.

¹⁵ Following.

¹⁶ June 24 to July 15, 1500. J. J. Bond,
'Handybook' (1889). ¹⁷ MS. illegible.

syttyng in his house with one Wylliam Halys his neyghbour, one persone to the seid Herry Squyer vnknown came in to his seid house & shewed hym & to his seid neyghbour of affray made in the Strete & therefore the seid Herry Squyer then & yet beyng one of the kynges Constables of Seynt Clementes parysh¹ came out of his house accompenyd onely with the seid William Halys & mett nygh his doore the seyd Richard Pynson one Thomas Sutton² & William Berell³ & in the kynges name charged theym to kepe the kynges pees and the seid Richard Pynson charged the seid Constable to kepe the kynges pees & furthwyth with out eny further mysdemeanyng or hurt done bytwyxt theym the seyd Herry Squyer went home ageyne to his house in peseble wyse & there rested alle nyght. Alle which maters thei be redy to proue as this Curt wyll award & praith to be dismissed with their resonable Costes & damages for their wrongfull trouble in this behalf.

Indorsed. Herry Squyer sworne vpon this his answer⁴ and vpon the bill of complaint ayen him saithe that he is not giltye of any maner ryot as it is supposid in the said bill, bi his oath more &c.⁵

John Vicar sworne and examyned. He saith vpon his oath that he is not giltye of any Riot contaigned in the bill ayenst him, for at the time of the said Riot supposid he was continuallie in his owne hous, and come not forth of his doores, vntill all was doone and euery body withdrawn.

c. Thys ys the Replicacon of Richard Pynson Cornelis Jonson and Harre Wylson to the seuerall Aunswer of Herry Squyer John Walker & John Vikers.

The seide Richard Pynson Cornelis Johnson and Harre Wylson sey that their Bylle of Complaynt is sufficient Certeyn & true and nott ymagyned of malice butt ys Commensed on a true grownde and

¹ The parish of St. Clement Danes was within the liberties of the Duchy of Lancaster, as also was the Savoy. The defendant Squyer was the king's constable as a servant of the duchy, which was the king's. The liberties of the duchy, according to J. Stow (ed. 1633, p. 492) were governed by the chancellor of the duchy, a steward, 'four burgesses & four assistants to take up controversies; a bayliffe, which hath two or three under bailiffes, that make arrests within that Libertie, four constables' &c.

² Will of Thomas Sutton, of 'St. Lawrence in the Jury, London, and Gnow-

sall, Stafford,' proved 1508 (J. C. C. Smith, Index, ii. p. 512).

³ Will of 'William Berell thelder,' of Crossed Freres, London, and Moche Badowe, Essex, proved 1518 (J. C. C. Smith, Index, i. p. 52). Will of William Berell, grocer, who devised lands to the Prior and Convent of the 'Crossed Fryers,' near the Tower, dated January 30, 1512, proved 1519. R. R. Sharpe, 'Wills enrolled in Court of Husting,' London (1890), ii. 628.

⁴ See Bath, Prior of, v. St. Augustine's, Canterbury, Abbot of, p. 25, n. 27.

⁵ I.e. 'he can not say' omitted.

on a Just Cause as ytt shalbe Euydently prouede att all tyme, further more they sey that the seide Herre Sqwyer John Walker John Vikers and euery of theym and other by their procuring and steryng be gyltye of all Riottz assemblez felonys maymez¹ and of euery other mysdemeanure Offence and wrong yn the seid bylle off Complaynt conteynyed and ouer that the seide Cornelis Richard & Harre Wylson sey and auerr yn althynges as they yn their seid bylle of Compleynt haue supposed and alleged all whych maters they be redye to auer & proue as thys Court woll awarde and praie that the seid Riottourz may be punysshed accordyng to their offencez.

¶

CARTER *v.* MALMYSBURY, ABBOT OF, AND OTHERS.¹

A. To the most reuerent Father in god Byshop of Salisburie keper of the kynges great Seale²

1500 Most lamentably complayneth to your good lordschip your dayly Oratoure Robert Carter that where oone Roger Late Abbot³ of the monastery of seint Aldelme of Malmesbury⁴ in the Countie of Wyltes predicesoure to the nowe Abbate³ there for the summe of xl marcs⁵

¹ Mayhems. 'Mayhem, mahemium, membri mutilatio or obtruncatio, commeth of the French word mehaigne, and signifieth a corporall hurt, whereby hee loseth a member, by reason whereof hee is less able to fight; as by putting out his eye, beating out his foreteeth, breaking his skull, striking off his arme, hand or finger, or cutting off his legge or foot, or whereby he loseth the use of any of his said members.' Coke upon Littleton, § 502; cf. id. § 194, and 3 Inst. 118. Cowel adds: 'But the cutting off of an ear or nose, the breaking of the hinder teeth, or such like, was no mayhem, it being rather a deformity of the body than diminishing of strength.' Interp. s.v. See also Pollock and Maitland, 'Hist. Eng. Law,' ii. p. 487, 488.

² S.C.P. Hen. 7, No. 76.

³ Henry Deane, translated from Bangor to Salisburie, December 7, 1499 (Le Neve, 'Fasti,' ii. 604); appointed Keeper of the Great Seal in succession to Morton, October 13, 1500; archbishop of Canterbury April 26, 1501 ('Dict. Nat. Biog.'). These dates fix that of the petition within six months.

⁴ No abbot bearing the Christian name of Roger is to be found in Dugdale's list, 'Monast.' i. 256. The succession given by Dugdale is as follows:

41. Robert Persore, 1424-1434.

42. Thomas Bristow, d. 1456.

43. John Andover, d. 1462.

44. John Aylee (1462-1479).

To this last name Dugdale adds 'supposed to have departed this life in 1479, because then

45. Thomas Olveston was put into possession of this abbey, and died in 1509.'

Dugdale's editors, however, here introduce the following note: 'It is more probable that he (John Aylee) died in 1475 or 1476, as among the patents we find one 16 Ed. 4 "de regimine abbacie Malmsb. et temporalibus ejusdem commiss. priori Bathon. pro quinquennio." The editors had not consulted the original patent, which shows them to be mistaken in their inference. See Introd., p. cxxiii.

It is most probable that 'Roger' refers to Robert Persore, but whether this MS. or Dugdale be right it has not been possible to ascertain.

⁵ The second abbot (c. 670) and patron saint of Malmesbury. See 'Dict. Nat. Biog.'

⁶ 26l. 13s. 4d. In the case of the Prior of Bath against the Abbot of St. Augustine's, Canterbury, p. 29, *supra*, the price was 16 marks (10l. 13s. 4d.). 'There are frequent cases of villains buying their freedom with their own money.' Bracton's 'Note Book,' pl. 31, 343. P. Vinogradoff, 'Villainage in England' (1892), p. 87. For the acquisition of fortunes by bondmen (*nativi*) see

of lafull money of Englonde to hym by Thomas Carter Grauntfather to your seint⁶ Suppliaunt and his Frendys payed the same late Abbot and his Couent by their Sufficient Dede of manumysion sealed vnder their Couent seale manumysid and made free for euer the seid Thomas Cartar oone William Cartar and John Cartare Sonnes to the seid Thomas and all their Sequele⁷ and afterwarde the seid John Carter hadd issue your seid Suppliaunt and oone John Aylie Abbot their predecessor to the seid nowe Abbot longe tyme after the seid manumysion not only reteyned youre Suppliant in his seruyce yerly by the space of xvij yeres⁸ And by all the seid tyme well and trewly contentid and paied to hym his wages as they were agreid appon at the tyme of the seid reteyner but also dimysid vnto hym ij meses with thappurtenaunces in Malmesbury foresayd to haue to hym for terme of his lyffe⁹ and receyued of hym for a Fyne c s., And besydes this the seid now Abbote¹⁰ reteyned yerely in seruice by the space of vj or vij yeres oone John Cartare Brother to your Suppliaunt and trewly contentid paied vnto hym all suche wages as they at the tyme of the same reteynere were agreed appon and afterwarde the seid Dede of manumysion come to the handes of oone Thomas Herner Laurence Hamonde late decessed¹¹ and John Whythpoll whych Dede by sotill and crafty meanes by twene the seid Laurence and John and the seid now Abbot is come to the handes and kepyng of the same Abbot So hit is gracious lorde that thes premisses notwythstondyng

⁶ 'Domesday of St. Paul's,' p. xxv. Cf. Leadam, 'Select Cases in the Court of Requests' (Selden Soc. 1898), pp. lxx-lxxii.

⁶ Sic, by mistake for 'seid.'

⁷ Latin *sequela*, literally 'litter' (of animals), customarily used in legal documents to express the offspring of bondmen. Cowel (s.v. *Manumission*) gives an example of a manumission by John Peckham, archbishop of Canterbury: 'Manumittimus et ab omni iugo servitutis absolvimus perpetueque titulo libertatis decoramus Robertum de Hempstede in Freintfeld quondam nativum cum tota sequela sua procreata et procreanda.' So William de Longespée in 1234 granted to the manor of Berencester (Bicester) his land in Wrecherych (Wrechwick), 'cum villanis et eorum sequelis et catallis.' (White Kennett, 'Parochial Antiquities' (1818), i. 305). This form Kennett in his 'Glossary' (vol. ii.) erroneously renders 'suit and service,' doubtless confounding it with 'secta.'

⁸ This is substantiated by the Patent Rolls, 2 Ed. 4 (1462), p. 228, a mandate to the escheators of Wilts, Gloucester and the marches of Wales, and the mayors, as

escheators, of London and Bristol, being issued on October 25, 1462, for the restitution of the temporalities of the abbey to Dan John Ayle, monk, whose election as abbot Richard Beauchamp, bishop of Salisbury, had confirmed. For the condition of the abbey under John Ayle's government see *Introd.* pp. cxxiii-cxxix. It is probable that he became blind about the year 1475, for November 8 of that year is the latest of his nominations upon the commission of the peace for Wilts, which had been continuous since 1463. P. R. 1461-67, p. 575, 1467-1477, p. 635.

⁹ See *Introd.*, p. cxxv.

¹⁰ Thomas Olveston. Doubtless an adopted name from Olveston in Gloucestershire. The temporalities of the abbey were restored to him by patent of June 7, 1480, in which he is described as 'monk of the monastery' (Patent Rolls, 20 Ed. 4, p. 202). I have not been able to discover any further particulars of him.

¹¹ Laurence Hamonde of Tetbury, Gloucestershire. Will proved 1498. J. C. C. Smith, 'Index of Wills,' i. 249.

the same Abbot that now is not Feryng God the kyng oure souerayn lorde ne his lawes in the vigill of the holy Trinitie laste paste¹² of greate Crueltie and extorcionet mynde without pitie caused the seid John Whythipoll Cristofer Capes John Mochgood Rychard Chalener William Carew and Thomas Tobie his seruantes accompanied wyth diuerse othere ryotise and mysrulid persons to goo to the house of youre seid Suppliaunt at Malmesbury fore seid and ther they with force and armes that is to sey with Bokelers swerdes Dilles¹³ and Staffes and other abilementes of warre¹⁴ riotisly the seid howse and Closse of your seid Oratour brake and entred and v Bollockes & x keyne¹⁵ ix calues cix shep of the goodes and Catalles of your seid Oratour to the value of xx li. then and ther found riotusly with great myght and force toke and dryve away and conveyed the same to the sayd monastery and the same goodes and Catalles the seid now Abbot receyueth and kepyth ther wyth great myght and will not suffre your seid Oratour his wyff nor Childer haue any soucour or to be releued of the same to their vtter distruction and nere Famysshing and ouer that the seid riotouse and mysruled persons by the Commaundement of the seid now Abbot then and ther in to your seid Oratoure made assaute and hym toke and imprisoned and so from his sayd howse carried hym in prisoun as a theff in to the seid monasterie and ther put hym both handes and fete in strayte stockes and ponderous Jrrons and tied hym to a great new cheyn to a great Stocke and so yet kepyth hym in that intollerable durese and willnat suffre hym to goo to bayly ne maneprise nor his wyff nor other his frendis to speke with hym nor to bryng to hym any thyng that shuld be for his sussetenaunce releue or socour and so ther he lyeth most pitiously cryingng and walyng in full great heüynes and all most nere dede and lyke to be¹⁶ shortely murdered excepte your gracious lordschip of your pure pytie and mercy prouyd for hym som remedy in the haste possible. Pléase it ther fore your lordschip the premisses tenderly consideryd to graunt severall wryttys sub pena to be directed to the same now Abbot John Whythypoll and William Carewe commaundyng them and euery of them by the same to apere afore oure souerand lorde the kyng and the lordes of his most honorable Councell at his palyce at Westminster at a certen day and vnder a certeyn peyn by your good lordeschipp to be lymytted ther to Answer to the premisses and Ferther to doo and obeye asby the sayd Councell shalbe

¹² June 12, 1500.

¹³ Sic for 'Bills,' the stroke distinguishing B from D having been omitted. On bills, see *Walterkyn v. Letice*, A, p. 165, n. 5.

¹⁴ See *Pynson & ors. v. Squyer & ors.*, A, p. 115, n. 12.

¹⁵ Plural of cow.

¹⁶ 'dede' struck through.

thought reasonable, And also to Commaunde the seyd nowe Abbott that he vpon the sight of the sayed wryt of sub pena do deliuer or cause to be deliuered your seid Oratour out of his said prisoun and suffre hym to be at large soo that he may be forth comyng to sue this his said Complaynt. And this at the reuerence of god and in the way of Charite &c. And your sayd Oratour shall dayly pray to god for the preseruacion of your good lordschipp.

Indorsed. Excellentissimo Domino Regi & consilio suo apud Westmonasterium Reddita octabis Michaelis.¹⁷

Carter contra Abbatem de Malmesbury.

B.

Henricus dei gracia Rex Anglie & Francie & Dominus Hibernie Dilectis & Fidelibus suis Thome¹ Abbati Cirencestriensi² & Thome Holford clerico³ salutem. Cum Robertus Carter quandam petitionem versus abbatem monasterii sancti Aldelmi de Malmesbury Johannem Whythypoll & Willelmum Carewe coram nobis in Consilio nostro nuper exhibuit quodque eisdem Abbati Johanni & Willelmo per breuia nostra precepimus quod essent coram nobis in Consilio predicto ad certum diem iam preteritum sub certa pena in eodem breui contenta petitioni predictae responsuri ac idem Abbas adeo impotens sui existat quod vsque Curiam Consilii nostri ad diem illum ad responsionem suam eidem petitioni fiendam absque maximo corporis sui periculo laborare non sufficit vt accepimus Nos statum eiusdem Abbatis pie compacientes ac de fidelitatibus vestris plenius confidentes dedimus vobis⁴ coniunctim & diuisim potestatem⁴ ipsum Abbatem de & super materia petitionis predictae diligenter examinandi responsionem que suam recipiendi & in scriptis redigendi. Et ideo vobis mandamus quod viso tenore petitionis predictae quem vobis mittimus presentibus interclusum ad certos diem & locum quos ad hoc prouideritis ad prefatum Abbatem seu ipsum si commode laborare sufficiat coram vobis venire

¹⁷ October 6, 1500.

¹ According to Dugdale Thomas Aston, abbot of Cirencester, 1488–1504 ('Monast.' vi. i. 176); but he signs Itun, see p. 123 infra, and qu. whether for Aston we should not read 'Aiton.' In the 'History and Antiquities of Cirencester' (3rd ed. 1842), p. 106, the name is given as Ashton.

² Cirencester, a mitred abbey of Augustinian or Black Canons, founded by Henry I in 1117. Valued in 26 Henry 8 at a yearly revenue of 1,051*l.* 7*s.* 0*½d.*, Dugd. l.s.c.

³ Thomas Holford, clerk, of Tetbury, Gloucestershire. Will proved 1506 (J. C.

C. Smith, 'Index,' i. 278). According to A. T. Lee, 'History of Tetbury' (1857), p. 218, the connexion of the family of Holford with this place did not begin until the seventeenth century. Tetbury is five miles N.W. of Malmesbury.

⁴ Substituted in another hand for words erased. 'Dedimus potestatem is a writ whereby a commission is given to a private man for the speeding of some act appertaining to a judge, and it is granted most commonly upon suggestion that the party which is to do something before a judge or in court is so feeble that he cannot travel.' Cowel, 'Interpr.' s.v. Dedimus.

faciatis ac ipsum de & super materia petitionis predictæ super sacramentum suum tactis per ipsum sacrosanctis dei euangeliiis corporaliter⁵ protestandum diligenter examinetis dictam que suam responsionem eidem petitioni fiendam recipiatis & vt predictum est in scriptis redigatis. Et cum illam sic ceperitis eam nobis in Consilium nostrum predictum vnacum tenore predicto ac nomine attornati quem pro eo habere voluerit ac toto facto vestro in hac parte in Octabis sancti michaelis proxime futuri⁶ vbicunque tunc fuerit⁷ sub sigillis vestris distincte & aperte mittatis & hoc breue. Teste me ipso apud Westmonasterium xij die Julii anno regni nostri sextodecimo.⁸

WARHAM.⁹

Indorsed. Per Consilium. Responsio Thome abbatis Cirencestrisens & Thome Holford Clerici infranominati.

Virtute istius breuis nobis directi venire fecimus coram nobis prefato Abbate & Thoma Holford infranominatum Abbatem Sancti Aldelmi de Malmesbury ac ipsum de & super materia petitionis in dicto breui specificate super sacramentum suum tactis per ipsum sacrosanctis dei Euangeliiis corporaliter prestitum diligenter examinauimus responsionem que suam eidem petitioni factam recepimus & in scriptis redegimus quas quidem responsionem & petitionem vnacum nomine attornati quem predictus Abbas de Malmesbury pro se habere voluerit infrascriptas domino Regi in consilium suum sub Sigillis nostris¹⁰ mittimus presentibus consutas prout interius nobis precipitur.

c. This ys thanswere of thabbot of Malmysbury
to the byll of Robert Carter.

The seid abbot seith that the said byll ys vncerten and insufficient and the mater therof determinable by the comen lawe wheroff he prayeth allowance and for declaracion of the trouth of the seid mater he seyth that he is and at the tyme of the matere comprised in the seid byll supposed to be done was seased of the maner of Newnton in

⁵ 'It is called a corporal oath because he toucheth with his hand some part of the Holy Scripture.' Cowel, s.v. Oath.

⁶ October 6, 1501.

⁷ Ubiunque tunc fuerit. This might appear to be a proceeding before the Council and not before the statutory Court of the Star Chamber. The form of writ given by Hudson as issuing from the Star Chamber varies in this as in other particulars. It runs: 'Nos inde et consilium nostrum apud Westmonasterium de toto facto vestro in hac parte . . . certificetis.' W. Hudson, 'Of the Court of Star Chamber,' in Collect.

Jurid. (1792), ii. 183. See also p. 218, *infra*. On the other hand, it is to be noted that the petition is to the Lord Keeper (see p. xliii, n. 4), and that Stodam, the attorney (p. 125), was one of the two attorneys practising in the Star Chamber. See p. 137, *infra*.

⁸ 1501.

⁹ Master of the Rolls, February 13, 1494–August 11, 1501, on which last date he became keeper of the Great Seal in place of Archbishop Deane. E. Foss, 'Lives of the Judges,' v. 242.

¹⁰ The seals have disappeared.

the Counte of Wiltes¹ in his demene as of Fee in the right of his seid monasterie and that the seid Robert is vylleyn & bondman² regard-aunt³ & belongyng to the seid maner, And that the same abbot & his predecessours haue byn seased of the seid Robert & all his auncestours & blode⁴ as of theire vylleyns & bondmen belongyng to the same maner out of tyme of mynde in the ryght of the seid monasterie, And because the seid Robert wold not be iustified⁵ by the seid nowe abbot the same abbot sued a writte of Natiuo habendo directe to the Shireffe of the Counte of Wiltes⁶ by vertue of whiche writte one Thomas Long esquier now Shireff of the same Counte⁷ directed his Warant to the seid william Cary then beyng Baylyff of the Burgh of Malmesburye Cristofer Capys Walter Mochegoode Richard Chaundelere & other commaundyng them by the same in the kynges behalf to take the seid Robert Carter with all his goodes & catalles and all his sequele and them to bryng to the seid now abbot by force of Whiche Writte and Warant the seid Baylyff Cristofer Capes Walter Mochegoode & other in the seid Warant specified in peasible manere in the seid vygyll of the blessed Trinite toke the body of the seid Robert Carter then beyng in the hous of one Walter Estcourte in Malmesbury

¹ A manor granted to the abbey by Athelstan in A.D. 681 (Dugd. 'Monast.' i. 258). The constituent revenues derived from this manor are set forth in *ibid.* p. 263 as follows:

	<i>l.</i>	<i>s.</i>	<i>d.</i>
Newynton			
Redditus Assise . . .	0	9	2
Redditus Custumariorum			
Tenentium	12	19	8
Firmarii . . .	12	6	8
Pannagium Porcorum . .	0	3	0
Firmarii Terrarum . . .	0	10	0
Perquisitiones Curie . .	0	16	6
Decime . . .	1	2	0
Annua Pencio . . .	0	8	0
Total revenues	28 <i>l.</i>	15 <i>s.</i>	0 <i>d.</i>

In the next manor (Chareleton), in addition to the rents of customary tenants, there is an item 'Redditus tenencium ad voluntatem domini.' These were probably tenants of the demesne, most likely bondmen. See I. S. Leadam, 'The Inquisition of 1517,' *Trans. R. Hist. Soc.* (1892), N.S. vi. 219, 220, 255. It would appear, therefore, that at the time of the valuation of 1540 there were no bondmen at Newynton, which suggests that the decree of the Star Chamber may have gone in favour of the plaintiff.

² On the confusion of villains with bondmen by the Norman lawyers and the real distinctions between the two see *ibid.*

passim. Also, *id.* 'The Last Days of Bondage in England,' *Law Quarterly Review* (1893), ix. 36, pp. 351-352.

³ As distinguished from 'villain in gross' (*capitagius*). See *Trans. R. Hist. Soc. s.c.*, p. 194 and notes.

⁴ 'Natives, or villains born, had their pedigrees as well as the most noble among the peers. Such pedigrees were drawn up to prevent any fraudulent assertion as to freedom and to guide the lord in case he wanted to use the native's kin in prosecution of an action de *nativo habendo*' (Vinogradoff, p. 143). An example of such a pedigree is given *ibid.* Appendix x. p. 440.

⁵ Controlled. J. A. H. Murray, 'Engl. Dict.' s.v.

⁶ 'A writ that lay to the sheriff for a lord whose villain claimed for his inheritance (and) run from him for the apprehending and restoring him to his lord again.' Fitzh., *Nat. Brev. f.* 77.

⁷ Thomas Long of Draycot Cerne, son and heir of John Long by Margaret, daughter of — Wayte (J. Aubrey, 'Wiltshire,' edited by J. E. Jackson (Devizes, 1862). T. L. married Margery, daughter of Sir Edward Darell of Littlecote, by whom he left three sons (J. Britton, 'Beauties of England and Wales,' vol. xv. p. 584); knighted in 1501 (W. C. Metcalfe, 'Book of Knights' [1885], p. 36); Sheriff of Wilts in 1500 and 1506 ('List of Sheriffs,' P.R.O.,

aforeseid and immediatly after that the same day & yere in lyke peasible manere entred a close of pasture that the seid Robert then occupied in Malmesbury aforeseid and the seid v bullokkes x kyne ix kalves liij shepe & viij lambes parcell of the seid goodes & catalles in the seid byll Specified then & there founde toke and the body of the seid Robert with the seid v bullokkes x kyne ix kalves liij shepe & viij lambes brought & delyuered to the seid nowe abbot as lafull was for them to do⁸ Whiche abbot the same Robert receyued & imprisoned⁹ and the same v bullokkes x kyne ix kalves liij shepe & viij lambes toke & kepte as his propre goodes and catalles as lafull was for hym to do. Without that the seid Roger late abbot of Malmesbury & his Covent by there dede of manumysseyon manumysed or made Free the seid Thomas Carter John Carter or William Carter as in the seid byll is surmysed, And without that the seid John Ayle late abbot dymysed vnto the seid Robert ij meses for terme of his lyff and albe it ther hadde be ony suche dymyse as ther was not, or yf ther were ony suche reteyner in seruice as in the seid byll ys surmysed it is not materiall in the law to exclude therby the ryght of the seid nowe abbot & of his seid monasterie that thei haue to the seid Robert as there bondman, And without that ony dede off manumysseyon of the seid Thomas came to the handes of the seid Thomas Heorner Laurence or John Wethipoll, And without that ony suche dede ys comme to the handes or keypyng of the seid nowe abbot, or that there were euer ony sotyll or Crafty meanes bitwene the same abbot and the seid Laurence & John Wethipoll, And without that the seid Baylyff¹⁰ Cristofer Capys & other in the seid byll specified in riotous wyse or in ony other maner were at the hous that the seid Robert occupied in Malmesbury in the seid vygyll of the blessed Trinite as also by the same byll is vntruly surmysed, And without that the same Baylyff Cristofer Capes & other in the seid byll specified toke¹¹ ony goodes and catalles of the seid Robert Carter other than in this answer be specified, And without that the seid nowe

1898); died 1508, in which year his will was proved (J. C. C. Smith, 'Index,' ii. 340); buried in Draycot church (Aubrey, p. 230).

⁸ 'Ceux (serfs) ne poent rien purchaser forge al oes lur seignur,' 'Mirror of Justices' (Selden Soc. 1893). 'Par ley de tere tut ceo qe le vileyn ad si est a soun seigneur.' Y. B. E. T. 13 Ed. 3 [17] p. 235, cf. ibid. M. T. [54] p. 102, Britton, ii. vii. 1.

⁹ Cf. the 'Mirror of Justices' (Selden Soc. 1893), vii. 79: 'Ceux (serfs) poent les seignurs firgir, ceppir, emprisonner, batre, e chastier a voluntie, sauve a euz les vies e

les membres entiers.'

¹⁰ 'Bayliffs of Franchises be those that be appointed by every lord within his liberty, to do such offices within his precincts as the bayliff errant doth at large in the county' (T. Blount, 'Law Diet.' [1670], s.v. Bayliff). See also as to the office of bailiff F. W. Maitland, 'Township and Borough' (Cambridge, 1898), pp. 77, 208. The abbots were lords of Malmesbury, Dugd. 'Monast.' i. 263.

¹¹ An erasure of about 2½ inches in length follows.

abbot of Cruelte or of extorcious mynde caused the seid John Wethipoll or any other person in the seid byll specified or any other riotous or mysruled person to go to the close that the seid Robert then also occupied as in the same byll is surmysed otherwise then in this answer is alleged, or without that the seid abbot or any of his seid seruaunts be gyltye of ony ryot or of onythyng done contrary to the kynges peas, And ouer theis the seid abbot seythe that ouer the seid goodes and catalles in this answer abouespecified brought to hym by the vertue of the seid writte he lafte with the wyff & children of the seid Robert goodes & catall to the value of xx marcs¹² whiche be sufficient for there sustentacion as yet and the same abbot offerd to delyuer to them suche mylche kyen as he hadde from them toward there sustentacion¹³ whiche they refused to receve butyf they mought haue hadde all other the seid goodes and catallys,¹⁴ And without that the seid Robert was by the seid nowe abbot or by any person for hym so straytely imprisoned and kept as in the seid byll is surmysed, All whiche maters the seid nowe abbot is redy to prove as this Court wyll award and prayeth to be dysmyssed out of the same with his reasonable costes & expenses susteyned in this behalff &c.

Thomas Itun ¹⁵	{	Thabbat of the monastery of Seynt aldeme of
Thomas Holforde		Malmesbury aboue named putteth in his
		place & maketh for his attourney William
		Stodam, ¹⁶ to defend ayenst Robert Carter in
		the mater comprised in the byll hervnto
		annexed.

Indorsed. Sherched the 13 may
anno Elizabethae 18.¹⁷

¹² 13*l.* 6*s.* 8*d.* ¹³ See Introd., p. cxxvii.

¹⁴ A similar spirit of resistance was exhibited by the alleged bondman William Netheway when amends were offered by Sir Edward Gorge who claimed his goods as belonging to his bondman. 'Select Cases in Court of Requests' (Selden Soc. 1898), p. 45.

¹⁵ See B, p. 121, n. 1, *supra*.

¹⁶ The name of a family at Burford, Oxfordshire (see J. C. C. Smith, 'Index of Wills'). The name of this person, however, does not occur in John Fisher's 'History of Burford' (1861). Cf. p. 134, *infra*. W. Hudson, in his 'Treatise of the Court of Star Chamber' (1792), p. 179, mentions 'Stoodham the attorney' for the city of York ats. Danby in 10 Hen. 7.

¹⁷ This indorsement suggests that inquiry was made as to the status of the

family of Carter at this time (1576) with a view to their manumission. Unfortunately the manumissions of serfs on Crown lands, then general, have not yet been sorted in the Record Office. That such an inquiry should be made, if it were made, appears to involve the conclusion that in this case judgement was given for the defendant, but see n. 1, *supra*. In 1575 (Pat. Roll, 17 Eliz. pt. 2, m. 39) is a grant by which Queen Elizabeth gives to Sir Henry Lee, knight, as a reward for his services, the fines and compositions that he could extract from any two hundred of her bondmen and bondwomen for the manumission of themselves, their families, and their lands. Second letters patent proceeded to present Sir H. Lee with the fines and compositions from a hundred more of the Queen's bond-

D.¹

tru(e)² (t)hat he had hard say or not, and thabbo(t)² *² (de)-
maundid² of this depon(en)t² what it was and then this deponent
(did s)²aye, Sir, I her say that ye clayme Robert here now present to
be *² (bo)ndman.² And the said Abbot answerd, I wote not
yet whether I will or not. Then said this deponent to the abbot agen
as he saith³ on this forme³ my Lord he is as fre as the best man
that is here, and ye do him wrong and ye make any clayme to him
for I haue seen haneled and hard red a fayre manumission vnder the
Covent seale of this place made to Thomas Carter grauntfader to this
poor man. Then stode therbie in the hãll where this communicacion
was oone Thomas White yet a lyve, husband man, and he said then
and there the said abbot hering it, I wote righte wele that my fadre
lent the said Thomas Carter x li. for to purchace the said manumission
with. Which wordes this spokyn, the said Robert Carter then and there
praied the said Abbot if he wold make any clayme to him for his
bondman that he wold take him evyn then, for he wold abide it, and
the Abbot answerd, Nay, I will not medle with the now that I haue
herd thies men speke. And nomore he dyd as this deponent saith
vntill the said Robert lay so soore seke that he was shreven and
howseld⁴ and then thabbot send his folkes to his hous and pastures
and tooke all the goode that he might come by aswell catall as other
of the said Robertes more⁵

THOMAS HERNE.

Furthre this deponent examyned how the said Dede of manumission
came to the keping of the said Water Herne⁶
saith that it was *⁷ *⁷ a pledge f *⁷ *² *² *²
John *² *⁷ *⁷ fadre to the said Robert *⁷ *⁷
*⁷ *⁷ Tho(ma)s² Carter, and that appered by a booke
th(at)² the said W *² (m)ade² in his life time in whiche he
wrote all his d *² *^e² to him and also thos that he himself
ought. And seith that in the same boke the same Water⁶ wrote all
suche pledges as he had of any persons, and for what somme thay lay

men and bondwomen. I. S. Leadam, 'Last Days of Bondage in England,' *Law Quarterly Review* (October, 1893), ix. 36, p. 357.

¹ These depositions are fragmentary, written on the front and dorse of two folios.

² MS. torn.

³⁻³ Interlined.

⁴ Communicated, from 'housel,' the consecrated elements.

⁵ This bondman had not the protection afforded by a customary tenancy. See the case of a bondman ('nativus') of the manor

of Castle Combe in 1436 where the customary tenants rejected the lord's claim upon the bondman's estate. 'Hist. of the Manor of Castle Combe,' p. 223, *Trans. R. Hist. Soc.* (1892), N.S. vi. p. 251.

⁶ In the plaint the custodian of the deed is named Thomas Herner (p. 119, *supra*). Qu. is this Walter Heurne of Tetbury, whose will was proved in 1485 (J. C. C. Smith, 'Index,' i. 269).?

⁷ MS. indecipherable.

and this booke this deponent had long in his possession after the deth of the said water, and he saw and red in the same booke that the said John⁸ Carter had borrowed of the said water vpon pledge of a manumission to the said Thomas his fadre made vnder the Covent seale of the monasterie of Malmesberie xj s. and this is true by his oath and in perell of his soul.

THOMAS HERNE.

John Newman of Tetberie aforsaid husbandman of thage of lxxv yere as he saith sworne and examyned vpon the said bill and Interrogatories aforsaid deposith that he was seruaunt to Thomas Carter grauntfadre to Robert Carter the now defendaunt vpon a lx^{ti} yeres goone litle lesse and he know that his said maistre then bond to the house of Malmesberie was very desirous to be free ant to be manumised howbe it that he was very aged and had not many yeres to lyve, yet natheleas he had greate mynd that his heires and blode aftre him might be free and that he might be free or he died and if he might bring that aboute it wold be more joifull to him then any worlelie goode. Such mynde this deponent knew him of bi thes wordes that he herd him speke diuers and many times iiij or v yere before his death. For which purpos the same Thomas Carter made diuers frindes dwelling with the then (abbot)⁷ of Malmesberie in his house hold whos names were Watkyn Ev(ered)e² and Jenkyn Sydynham gentlemen, to be meanys and to ent(er i)n² comunicacion with thabbot thair Lord for a m(anumi)ssion² for the said Thomas. And in conclusion the said Abbot *² agreable that the said Thomas shold be manumised bi him and his Covent and also all his heires aftre him. What som the same Thomas shold pay for his manumission this deponent is not now remembred albe it the said Watkyn Everede and Jenkyn Sydynham sent worde to the said Thomas Carter of all the somme, but this deponent knowth righte wele that oone Nicholl white then of Asshlehgh fadre to Thomas white of Cheggelow fast bi asshley when a lyve sent to the said Thomas Carter to the payment for his said manumission x li., and that this deponent knowith for that the said Thomas white come fro his said fadre to Newnton fe within a myle of Tetbere to this deponentes said maistre Thomas Carter with the said x li., and this deponent saw the money laid out vpon a boord in Newntons courte bi the same Thomas White and there it was told in gold and grotes and ⁹after that⁹ that the same

⁸ Substituted for 'Thomas' which is struck through. John was the father of the plaintiff (p. 119, supra). ⁹ Interlined for 'it delivere' struck through.

Thomas White deliuered it to the said Thomas Carter in his fadres name, and there they appointed a day when it shold be repaid to the said Nicholl White of which day this deponent is not now remembred albe it this money was brofte to the said Thomas Carter on a Wensday and on the next morow thursday the same Thomas Carter took iiij of his principall and hed neyburs that is to say John Parson a Landed man Richard Porter John Cossham Hopkyn ^{* 7} ge Hugh F ^{* 7} ^{* 7} then ¹⁰ went to Malmesberre to the ^{* 7} ^{* 7} and paid ^{* 7} ^{* 7} ^{* 7} Marbray ¹⁰ the ^{* 7} ^{* 7} ^{* 7} ^{* 7} manumission to ^{* 7} ^{* 2} ^{* 7} ^{* 7}

¹¹ thair Covent seale the said Thomas Ca^rter² and all his (heire)s² and posterite and that this deponent knowith as (he saith)² h² for he was there present ¹² wayting on his said h¹² and saw the money paid and told opinlie vpo the boorde in the hall of thabbay but howmich he is not now remembred. This deponent saw ¹³ also the dede of manumission sealid with the Covent seale, for the said Thomas and his heires and so he herd it red opinlie in the hall aforsaid bi the said abbot then being.¹⁴ What thabbotes name was this deponent is not now remembred of as he saith, and afre that the same abbot made the high priour ther ¹⁵ ther also rede it opinlie in the same hall, And that doone, the same Abbot and priour set both their handes to the same dede and it deliuerd opinlie ¹⁶to the handes of the same Thomas ¹⁶ and in the name of ¹⁷thaimselff and of ¹⁷ the hoole Covent there for thaire true dede and this doone, thay that were the said Thomas Carters frindes went forth of thabbay into the town of malmesberre and there thay yete a cople of Capons which this deponent had broufte bi his masters commaundement fro Newnton aforsaid and that doone the said Thomas Carter and all his said Neighbors rode home to thair houses and on the sonday folowyng, at the parsons hous of Newnton whos name was Sir Hugh ¹⁷ a northern man ¹⁷ in presence of the substaunce of the pariss there then for this cause assembled ¹⁷ at the desire of the said Thomas Carter,¹⁷ the said dede was opinlie red and declared to the vnderstanding of all thaim that were there bi the same Sir Hugh and all the people there enioyed and were glad that the said Thomas was

¹⁰ Reading doubtful.

¹¹ This is another fragment of the depositions probably taken at the hearing of the case by commissioners. It is written upon the front and dorse of two faded and mutilated folios of paper.

¹²⁻¹² This is interlined and stops abruptly at h.

¹³ Substituted for 'herde' struck through.

¹⁴ The original deposition continues 'his name was Dan Thomas Bristow.' This has been struck through and the words in the text interlined. See A, p. 118, n. 3, supra.

¹⁵ Interlined above the 'ther' following.

¹⁶⁻¹⁶ Interlined in substitution for 'for thair dede and the covenantes ther' struck through.

¹⁷⁻¹⁷ Interlined.

¹⁸manumysed he ¹⁰ and his ¹⁸ heires and were glad therof and the next ¹⁰
 night the same Thomas * 2 * 2 (m)ade ² a goode fe(as)t ¹⁰
 for ¹⁰ his parson and after ¹⁰ * 7 * 7 * 2 * 2 * 2
 Vikar ¹⁰ at ¹⁰ * 3 * 3 dede bec(ause) ⁷ * 7 * 7

MAYNE AND OTHERS *v.* GIBBES AND ANOTHER.¹

To the King our soueraigne lord And to the lordes
 of his moost honourable Counsaile

1501 Humbly sheweth and piteously complayneth vnto your highnesse
 your daily Oratour and pover subjiertes William Mayne Chapeleyne
 John Bonyfaunt² and Johane his Wyf of your Cite of Excestre in
 your Countie of Deuonshire That Where as your said Oratours and
 theyre Auncestours hath bee peasibly seased in and of iij tenementes,
 iij Gardyns in great Totnise, iiij Acres of Medow in Folotyng lane,
 viij Acres of Medow in Northford within the Maner of Dortyngton
 and v Acres of Pasture in Tikcombe in the said Countie of Deuen in
 their demeane As of Fee, Vnto now of late, that oone William Gibbes³
 Esquier Thomas Pendregyst with many othre moo to the Numbre of
 x or xj persons to your said Oratours vnknownen, Vpon the Thursday
 next aftere our lady day thassumpcion⁴ noue last past, the xvjth yere of
 your moost noble Reigne⁵ into the said tenementes entred. In which
 tenementes oone William Helyer mercer dwelleth and with force of
 Armes That is to say With Billes⁶ Bowes Arrowes & Swerdes toke
 and bare away certain Sylkes and lynnyn cloth⁷ And put the said
 William Helyer out at his dorres there and bare away his keyes, And
 felled and cutt down many Okes in the said Medowes, And the same
 Okes caried away riottously and forcibly, And yet soe contynueth in
 theyr malicious demeanour, That your said Oratours dare not comme
 to the Town for toccupye theyre said landes and Rentes As they
 haue doone befor tyme by the space of A C. yere and more, For feare
 and jeopardy of theyre lyves, Without your especial grace and pitie

¹⁸⁻¹⁸ MS. much injured.

¹ S.C.P. Hen. 7, No. 85.

² See Hewyt and others *v.* London, mayor of, p. 81, n. 12.

³ William Gibbes, Gibbys, or Gybbys, son of William and grandson of John Gybbys, born in 1471 (Inq. p. m. Hen. 7, i. 303). The Inquisition found that the grandfather, whose heir William Gibbes was, died seised, inter alia, of certain messuages and lands of the clear yearly value of ten marks (6*l.* 13*s.* 4*d.*) in Great

Tottenes, also of a wood in Fenton of the manor of Dertyngton. The other places mentioned in the plaint do not occur in the Inquisition. John Gybbys was perhaps the John Gibbs who was bailiff of Exeter in 1470 and 1477. R. Izacke, 'Antiquities of Exeter' (1724), pp. 88, 89.

⁴ The feast of the Assumption of the Virgin was August 15.

⁵ 1501.

⁶ See Walterkyn *v.* Letice, p. 165, n. 5.

⁷ A principal commodity of the trade of Exeter; see p. 81 and foll.

bee vnto thaym shwed in this behalue. In consideracion whereof It Wol please your highnesse the premisses graciously considered to graunt your lettres of priue Seal to be direct to the said William Gibbes and Thomas Pendregyst Comaundyng theym by the same tappere At your Palais of Westminster in the xv^e of saint Martyne next commyng⁸ and vndre a certain peyne ther taunswere to the premisses. This at the Reuerence of God And in way of charite.

xxj die Octobris anno regni regis Henrici vij xvij.⁹ Responsable¹⁰ apud Westmonasterium xv martini sub pena utriusque eorum c. marcarum.¹¹

Indorsed. ¹² ces xvij.

Decretum est Privatum Sigillum fieri et ad comparandum¹³ vt infra petitur.

R. Rydon.¹⁴

Willelmus Mayne Capellanus Johannes Bonyfaunt & Johana vxor eius contra Willelmum Gibbes Armigerum et Thomam Pendregist.

In modern hand. Mayne & al v. Gibbs.

KEBELL v. VERNON.¹

A.

1502 To prove Wylllyam Vernon brodur to sir Henry Vernon knyght² gylty off felous³ takyng & Rauishment of margaret Kebell⁴ Wedow &

⁸ November 25, 1501.

⁹ 1501.

¹⁰ Returnable.

¹¹ 66l. 13s. 4d.

¹² MS. torn.

¹³ Sic.

¹⁴ See Shrowesbury, Abbot of, v. Bailiffs of, p. 193, n. 2.

¹ S.C.P. Hen. 8, Bundle 19, No. 71. Sorted by mistake into the bundles of proceedings temp. Hen. 8.

² Sir Henry Vernon was the eldest of seven sons of Sir William Vernon by Margaret Pye of Spennore ('Dict. Nat. Biog.', Vernon, Sir Richard, Treasurer of Calais and Constable of England, d. 1467). See Nichols, 'Hist. Leic.' III. ii. 985. The family were perhaps originally Lancastrian in politics, for on Dec. 3, 1461, Sir William obtained a pardon of all offences committed by him before November 4 (Pat. R. Ed. 4, p. 81). He and his son Henry were summoned in 1463 by writ of Privy Seal to answer a complaint that they, at the head of a party of men, had broken open the closes and houses of John Skelley and Richard Baweke-

well, assaulted them, and carried off their goods, rents, corn, beasts and chattels (ib. p. 304). As they failed to obey the Privy Seal, a commission was issued to inquire into the complaint (ib.). Henry Vernon presumably made his peace with the King, for on October 18, 1470, he was nominated on a commission of oyer and terminer for the county of Derby (ib. p. 248) and on a commission of array for the same county on March 7, 1472 (ib. p. 349). He was nominated a commissioner to inquire into certain 'farms for lands granted & divers other sums of money & yearly profits' in Derbyshire on April 18, 1473 (ib. 408), and from 1469 to 1476 he was constantly upon the commission of the peace for the county (ib. 611). He was returned to Parliament as Knight of the Shire for Derby on January 8, 1478 (Members of Parliament, Parl. Pap. 1878, LXII. i. 363). He probably rallied to Henry 7, for, though his name does not appear at Bosworth, he was one of the leaders of the royal army which defeated John de la Pole, Earl of

off the felous reseyuyng by the seyð Wylllyam Vernon off Roger Vernon⁵ & dyuers odur partiez previe to the rauishment.

Lincoln, at Stoke on June 6, 1487 ('Henricus Vernonus ex Pek,' Polydore Vergil, xxvi. p. 728, ed. Leyden, 1651). On December 23, 1488, he was nominated a commissioner of musters for the expedition to Brittany (Campbell, 'Mat.' ii. 386). In 1489 he was dubbed a Knight of the Bath (W. C. Metcalfe, 'Book of Knights,' p. 21) on the occasion of the creation of Prince Arthur Prince of Wales. Thenceforth he was attached to the Prince and was a member of the Council of Wales. He was a commissioner to raise a benevolence towards the expenses of the war with France in 1491 (July 7) (Rym. 'Foed.' xii. 446). Polydore Vergil (lib. xxvi. p. 766) mentions him as among the knights who marched under Edward Stafford, Duke of Buckingham, against Perkin Warbeck's army at Taunton in September 1497. He was a signatory of the marriage articles between Prince Arthur and Katharine of Aragon in 1500, and high sheriff of Derbyshire in 1504 (S. Rayner, 'Haddon Hall' [1836], pp. 28, 29). On June 25, 21 Hen. 7 (1505), he was summoned before the Court of Exchequer for forcible entry into the lands of Ralph Pole in Spondon and Chadderden, Derbyshire, the issue of which process does not appear (MS. R. O., Exch. K. R. Mem. Roll, T. T. 21 Hen. 7, m. xxiii). He was one of the trustees of Henry 7's will (Rot. Parl. vi. 522 a). He died April 3, 1515, and was buried at Tong, the castle of which he rebuilt in brick (J. Leland, 'Itin.' vii. 31, W. Camden, 'Britannia' [ed. R. Gough, 1806], iii. 29). He married the Lady Ann Talbot, daughter of John Talbot, second earl of Shrewsbury. She died May 17, 1494 (Nichols, 'Hist. of Leicestershire,' III. ii. 986*). The pedigree in R. Gough's 'Sepulchral Monuments,' ii. 264, makes Sir Henry Vernon an only son of William Vernon by Margaret daughter of Lord Ferrers, and grandson of Sir William Vernon and Margaret Pype. This the present case shows to be incorrect, and though the writer of the article in the 'Dict. Nat. Biog.' specifies Gough's as one of 'the most correct pedigrees,' it is certainly untrustworthy, for no 'Roger' Vernon occurs in it, and it is to be observed that in his account of the family the writer of the article does not follow it (vide supra). See J. Nichols, 'Hist. of Leicestershire,' III. ii. 985*.

³ For 'felonous,' a form of felonious. It was felony by 3 Hen. 7, c. 2 (1487), 'An Acte agaynst taking awaye of women agaynst their willes.'

⁴ Widow, as appears later, of Thomas

Kebell, serjeant at law, who died in 1500. A brief abstract of his will is given in H. Nicolas, 'Testamenta Vetusta,' p. 440, from which it appears that he was twice married. He is described in the Registry of the Prerogative Court of Canterbury as of Humberston, Leicester. The name is there spelt 'Kebell,' but in Nicolas 'Kebill.' He was the son of Walter Kebell, whom W. Burton ('Description of Leicestershire' [1622], p. 139) calls 'that famous serjeant at law in the raigne of King Henry the Seauenth.' His name is first found in the Commission of the Peace for Leicestershire on October 24, 1474 (Pat. Rolls Ed. 4, p. 618), an office which from this time throughout the reigns of Edward 4 and Richard 3 he continuously held (Pat. Rolls, 1476-85, p. 563). A person of his name sat in Parliament for the borough of Lostwithiel in 1478 (Members of Parliament, p. 363). He appears to have been a Yorkist in politics, for on Dec. 10, 1483, after the abortive insurrection organised by Buckingham, he was nominated a commissioner to inquire into 'treasons, insurrections & rebellions' in Leicestershire (Pat. Rolls, Richard 3, p. 393). He was also a commissioner of subsidy for the county in the same year (ib. 396), and a commissioner of array for the county on May 1, 1484 (ib. 400), and on December 8 following, in anticipation of the invasion of Henry Tudor, earl of Richmond. He was put upon a commission to try coinage offences in the western and midland counties, among them Leicestershire, on May 25, 1485 (ib. p. 544). According to Burton, who was a member of the Inner Temple, Thomas Kebell 'was called serjeant on Nov. 20, 1486, and became king's serjeant in 1499' (see J. Nichols, 'Hist. of Leicestershire' [1800], III. i. 270). Foss ('Lives of the Judges,' v. 15) gives 1494 as the date of his call as serjeant. None of these dates can be correct, for on Jan. 30, 1487, in the grant of the custody of the lands in Leicestershire of the late John Kebeel during the minority of his son George, he is styled Thomas Kebeel, gentleman (Campbell, 'Mat.' ii. 113), while on Dec. 15, 1487, he is styled Thomas Kebeell, serjeant at law (ib. p. 214). The date of his call as serjeant may therefore have been Nov. 20, 1487. Further, on Nov. 10, 1488, he is styled 'one of the king's serjeants at law,' being nominated to inquire into certain complaints of the king's officers and tenants of Tutbury, in the duchy of Lancaster, against the abbot of Burton (ib. p. 361). His appointment

First, the seyd margaret seyth that she was broght by Roger Vernon & dyuers odor Contrarie to her mynd & good wyll from blore in the Countee off derby⁶ to Henry columbell ys place in the same Countee⁷ & on Candylnas day last past⁸ sche was broght by the seyd Roger & dyuers odor to a manor place off sir Henry Vernon callyd Sheyll in the Countee off leycester⁹ where in duellyth on Wyllyam Vernon brodur to the seyd sir Henry & the seyd Wyllyam Vernon¹⁰ with owt the dore resceyuyd the seyd Roger Vernon margaret Kebell & odor dyuers partiez preve to the felous takyng a wey off the seyd margaret & Wyllyam Vernon & Roger toke the seyd margaret by the armez & broght her to a chamber where in was affeyr fyre redy made a fore the Cummyng off the seyd margarett & by cause the fyre brend¹¹ not clere the seyd wyllyam Vernon was very angry.

Item the seyd margaret seyth that when the seyd Roger Vernon & Wyllyam had broght the seyd margaret to her chamber they departyd & walkyd down in gret Counsell. Whydur they walkyd the seyd margaret can not tell and immediatly aftur ther departyng Came the Wyff off the seyd Wyllyam Vernon to the seyd margaret & askyd off the seyd margaret what thyng shuld cause the seyd margaret to be so sad & hevvy and furthermore sche askyd off the seyd margaret

as King's Serjeant so soon after the accession of Henry 7 suggests that he was among those Yorkists who abandoned the cause of Richard 3. In 1489 he was put upon the commission of the peace by the new king (Campbell, 'Mat.' ii. 480). He was nominated by Henry 7 in 1496, in company with a number of personages of the highest distinction, a feoffee of certain lands to the use of the king's will (Rot. Parl. vi. 510 b). His wives' Christian names, as his will shews, were Ann and Margery. Nichols, who only knows their surnames, gives Bathorp as that of his first, Eyton of his second wife ('Leicestershire,' III. i. 273). He appears to have acquired a large fortune at the bar. Nichols (p. 270) enumerates his lands in Leicestershire, including six manors, from an inventory in the archiepiscopal registry. His widow was, therefore, a wealthy woman.

⁵ A son of Sir Henry Vernon, as appears presently, not mentioned in the pedigrees. See n. 2, *supra*.

⁶ Now in N.E. Staffordshire, less than a mile from the borders of Derbyshire. At this time the manor appears to have been held by the family of Bassett or Basset. S. Erdeswick, 'Survey of Staffordshire' (ed. T. Harwood, 1844), p. 486; cf. W. C. Metcalfe, 'Book of Knights,' p. 61, 'Sir (?) William) Basset of Blowre' knighted 1529.

⁷ Lord of the manor of Darley, about five miles S.E. of Bakewell, Derbyshire, and about twelve miles N.N.E. of Blore. D. and S. Lysons, 'Derbyshire' (1817), pp. cxxiii, 98; Harl. Soc. xv. 183; 'Genealogist' (1882), vi. 143.

⁸ February 2, 1502.

⁹ Sheyll. In 'Domesday' Scella; in 'Testa de Nevill' (1240) Scheles and Scheyl, but in other contemporary documents Sheyle and Seile. Now Seale. The manor of Church Sheyle or Nether Seile was held by the family of Pipe, until it passed into the Vernon family by the marriage of Sir William Vernon, of Haddon, with Margaret Pipe. But the Vernons had held land in the manor of Over Seale since the time of John, and acquired that manor in 1427. In 21 Ed. 4, and again in 2 Richard 3, Henry Vernon acquired other lands in Sheyle (Nichols, 'Leicestershire,' III. ii. 986*). Sir Henry's eldest son, Richard, succeeded to his lands in Sheyle (ib.).

¹⁰ W. V. may be inferred to have been living here as early as 21 Ed. 4, when Henry Vernon, esquire, made him his attorney to take seisin from Thomas Bradshaw of Tyddeswall of lands *infra dominicum* de Sheyle and Sheyle Hide. Nichols, III. ii. 986*.

¹¹ Burnt.

whedur Roger Vernon had takyn her Contrarie to her mynd & good wyll & the seyd margaret seyth that sche seyde that Roger Vernon had takyn the seyd margaret contrarie to here mynd & wyll & that he schuld repent yff euer the seyd margaret Cam to her libertee furthermore the seyd margaret seyth that the Wyff off Wyllyam Vernon desyryd the seyd margaret to haue pite and Compassion on the seyd Roger & not to vndo hym for euer.

Item the seyd margaret seyth that the Wyff of Wyllyam Vernon departyd from the seyd margaret & went to the seyd Roger Vernon & Wyllyam & seyde to them that hyt was pitee that the seyd Roger Vernon levyd by cause that the seyd Roger toke a wey any good Gentywoman as the seyd margaret ys contrarie to her mynd & wyll.

Item the seyd margaret seyth that the Wyff off Wyllyam Vernon Came to her & schewyd what sche had seyde to Roger Vernon & Wyllyam her husbond and immediatly aftur Cam the seyd Roger Vernon in to the chamber to the seyd margaret & seyde Alas mastres Wyl hyt be no bettur yit I mervell gretly that ye wyll schew yowr mynd to suche a strong strumpett & a hore as sche ys for sche Can kepe no Councell & al that ye doo ys to vndoo me for euer & with that the seyd margarett seyth that the seyd Roger wept very fast and the seyd margaret seyth that sche seyde sche wold do so eny place where so euer sche Came & wold not let for no man.

Item the seyd margaret seyth that on the moroo next aftur Candylmas dey last past¹² yerly¹³ in the mornynge the seyd Roger Vernon & Wyllyam causyd a preest to syng masse in the chamber afore the seyd margaret & the seyd Roger Vernon and Wyllyam Came in to the chamber where as the seyd margaret was knelyng & wept & made gret lamentacion & sorow & that the seyd Roger Vernon & Wyllyam see & hard the wepyng and lamentacion made & there they hard masse & when masse was endyd the seyd Roger Vernon & Wyllyam went to gedur to a wyndow & there they talkyd to gedur the space off an ovr in gret Concell what hyt was the seyd margaret Can not tell but as sche supposyth hyt was for her takynge a wey for immediatly the seyd Roger Vernon and Wyllyam send vppe to london on Jhon Alsoppe¹⁴ to dyuers off¹⁵ the fryndys off the seyd Roger Vernon for to labur for hym in the mater & the seyd margaret seyth at that tyme the seyd Wyllyam Vernon was redy to ryde & the seyd Roger Vernon shewyd to the seyd margaret that the seyd Wyllyam

¹² I.e. Feb. 3, Festival of St. Blasius.

¹³ Early.

¹⁴ Probably the second son of John Alsopp of Alsopp in the Dale, W. Derby-

shire, about ten miles S.W. of Haddon. See the pedigree in S. Glover, 'Hist. of Derby' (edited by T. Noble, 1829), ii. 21.

¹⁵ 'hys fryndys' struck through.

Vernon schuld goo to Haddon to hys ¹⁶ fadur & then the sayd Roger Vernon & Wylliam toke the seyd margaret by the armez & broght her to her hors the whyche be causez sufficient to prove the seyd Wylliam gyilty off the premiszez. And the seyd margaret besekyth yowr good lordschyppes that the seyd Wylliam may be put to Answere to the premiszez & that the seyd sir Henry Vernon bryng in the seyd Wylliam Vernon for he ys continually with the seyd sir Henry Vernon and he aydyth Confortyth & reseueth the seyd Wylliam the which ys felonye in hyt self.¹⁷

Indorsed. This bill my lord Chaunceller deliuered to me W. Stodham ¹⁸ in the sterre chambre vpon Wednysday the xvijth day of Juyn
Termino Trinitatis Anno regni regis xvij^o ¹⁹
Margareta Keble vidua contra Henricum Vernon & alios.

- B. Interrogatorie betwix Henry Vernon knyght And margaret Kebell late Wyff off Thomas Kebell on off the seriantes at the la.

Imprimis yffe¹ the seyd margaret were conveyd & reseuyd loggyd or confortyd at any manour or placys off the seyd sir Henry or at any off the fryndys off the seyd or seruantes off the seyd sir Henry.

Item yff¹ Wylliam Vernon brodur to sir Henry Vernon came or Any message from Roger Vernon concernyng the takyng a wey off the seyd margaret or that the seyd sir henry had any knolegge by the seyd Wylliam vernon off the felous takyng a wey off the seyd margaret.

Item yff¹ sir Henry Vernon Ayded confortyd or procuryd or concellyd Wylliam Vernon that the seyd Wylliam shuld schew to Roger Vernon that he schuld Convey the Company² by the manour placez And liggynges³ off sir Henry Vernon & to the marchez off Walez or vn to Any odur place.

Item yfe¹ the seyd sir henry vernon Abbettyd Comfortyd Aydyd procuryd or receuyd⁴ the seyd Roger or Any off hys Company prevy to the rauschyng off the seyd margaret in any place to take a wey the seyd margaret.

¹⁶ I.e. Roger's.

¹⁷ This is true. The Act 3 Hen. 7, c. 2, lays down 'that such takyng procuring and abettyng to the same, and also receyvyng wetyngly the same Woman so taken ayenst her Will and knowyng the same, be felonye, and that such mysdoers takers and procuratours to the same, and receytours knowyng the said offence, in forme aforseid be hensforth reputed and juged as principall felons.'

¹⁸ See p. 125, n. 16, and p. 137, n. 13.

¹⁹ 1502.

¹ 'Whether' struck through.

² Presumably the escort of a hundred armed horsemen. See *Introd.*, p. cxiii.

³ From 'ligge,' to lie down, a North country word. See J. O. Halliwell, 'Archaic Dict.'

⁴ The words of the statute. See n. 17, *supra*.

Item yffe¹ the seyd sir henry conceillyd the seyd Roger to take a wey the seyd margaret or that the said sir henry relevyd the seyd Roger or Any off hys Company with hys Concell or with hys money in the Conveyng a wey off the seyd margaret to the marches off Walez or in her leying in the marche⁵ off Walez⁵ or in Any odur place.

Item yff the seyd sir henry send any letturs to the seyd Roger in hys beyng in the marche⁵ of Walez or in Any odur place confortyng the seyd Roger.

Item yff the seyd sir Henry procuryd mouyd or styrd the seyd margaret to Conceall & excuse the seyd Roger hys Company or Any off them prevy to the rauischement off the seyd margaret off her felouz takyng a wey & rauischement in any place.

Item yff the seyd Roger were relevyd by the seyd sir henry with Any off hys seruantes or fryndys or aydyd or strenght.⁶

c.

The sayng of Edward Capull.¹

The seid Edward seithe that at the fyrst comyng to london of Margett Vernon late the wyffe of Thomas Kepbull that she dyssired hym to speyke with sir henre Vernon and dyssire hym to come and speyke with hyr, which so dyd and at the fyrst metyng the seid sir henre seid she was welcome bot he wyst not whedur he myght sey welcome doghter or maistres, and she seid doghter and it pleased hym and so I trust ye will take me and be good fadur to your son and me and the seid sir henre seid, so that ye be as ye say, the Kyng pleased, I will be contentt.

Item the seid Edward seith that² the seid Margett seid to hym³ betwix chepyngnorton and Islep vpon a down³ ⁴and also in a bote betwix the town⁵ & grenwech⁴ that she was as well contentt with Roger Vernon as any woman in the world was with hyr

⁵ The object of taking his captive to the Marches of Wales was to protect himself from justice by interest with some one of the Lords Marchers, who claimed that the king's writ did not run there. See the case of *Straunge v. Kenaston*, *Introd.*, pp. xciii-xcv. The Marches of Wales were the common haven of abductors. See '*Rot. Parl.*' iv. 497-98, v. 15, &c.

⁶ Strengthened.

¹ From the report of the case '*Vernon v. Keble*,' an action for conspiracy arising out of this abduction, heard in the King's Bench in 1506, it appears that E. Keble was a person who endeavoured to rescue Margaret Keble. See *Introd.*, p. cxiii. It is therefore to be inferred that Edward Capull,

who here gives evidence for the defence, is a different person. The name Capell is written Cabell in '*Paston Letters*,' iii. 326. I have not been able to identify this person.

² The words 'at all tymes,' which followed, have been struck through with a pen in the same ink as the subsequent interlineations, and marginal note 4-4.

³⁻³ Interlined. The order in which the places are named and the fact that the direction is from N.W. to S.E. show that this occurrence was on the return journey, presumably to London.

⁴⁻⁴ Marginal.

⁵ An early use of the phrase.

husbonde, and that he dyuers tymes examyned hyr to prove hyr whedur she dessembled or not and euer he founde hyr won woman in as lovyng maner as any woman cowde be to hyr husbonde as well in goyng to hyr bed with the seid Roger as in all odur lovyng delyng.

Item the monday by fore she wentt to the kyng to Grenewyche the seid Margett ⁶at Sarynshed in fletstrete⁶ dissired the seid Edward to goo to the seid sir henre and witt of hym whedur I shall come and speyke with hym or that he will come and speyke with me and he so dyde and the seid sir henre seid that he wold speyke with hyr and there they sett them downe at a bed syde, bot what they seid he can not tell.

Item the seid Edward seith that when she wentt to grenewyche he wentt with hyr, and then when they were in the botte he seid thes wordes to hyr. Maistres, woll ye be aswell contentt now as ye haue bene all the whiles, that ye haue bene with the seid Roger. ⁶Then she answerd thus,⁶ What thenke ye in me that ye axke me all thes questions so oft as ye haue done, and I were so false and so vnsad⁷ as ye thenke I am, it were pete that I shuld lyffe.

Item the seid Edward seith that the seid Margett when the seid Roger hade boght a hors at a Town called Parshore in Worsetturshyre she was glad there of and toke to hyr awne purse as she sate on hors backe and gaffe to hym that broght the seid hors xij d. or xx d.⁸ he wottes not well whedur.

Item the seid Edward seith in no comynycacion that euer he hade with hyr at any tyme bot that she ⁶said that she⁶ was euer well contentt and pleased with the seid Roger and that the seid Roger hade done nothyng to hyr bot that she was well pleased and that she was mete for no man bot for hym.

Item the seid Edward seith that he examyned sir James hyr preste in secrete maner and axked hym whedur his maistres were contentt with the maryage as she seid or not and he seid yes he knew non odurwise and the seid Edward besoght⁹ the seid preste to shew hym the verray trouth as he knew in hyr and he layde his hande apon his porthowse¹⁰ and sware by that boke that he knew non odurwise bot that she was verrey well contentt with the seid Roger.

⁶⁻⁶ Interlined. I have not been able to identify this tavern. In 'New Remarks of London,' collected by the Company of Parish Clerks (1732), in an appendix containing a list of stage coaches and carriers, there is frequent mention of the Saracen's Head, Carter Lane, which was on the

Blackfriars side of the Fleet.

⁷ 'Unsteady.' J. O. Halliwell, 'Archaic Dict.'

⁸ I.e. three or five groats.

⁹ 'hym' struck through.

¹⁰ Otherwise portasse, portas or porteux a breviary. Halliwell.

Item the seid Edward seith that the seid Roger ⁶after as he was takyn¹¹ Westmynstre ⁶ send hyr a Pyke and Erynges¹² and she send to hym ⁶to the same place⁶ ayen a dysse of appuls, and the seid margett send the seid Pyke by the seid Edward vnto the seid sir henre when it was sodon and he toke parte there of and send hyr the remnant and the seid Edward seith that he knowith not bot that she toke the seid Pyke and Eryng with good hert and good will as any woman cowde take a gyft of hyr husbond.

xv^{mo} die Julii Anno etc. xvij^{mo}.¹³

Indorsed. Pro Henrico Vernon milite.
Edward Capull.

Thies billes my¹³ fellow quynt deliuered to me this Tewysday the viijth day of Novembre anno xvij^o.¹⁴

iiij die Novembris Anno Henrici vij. xx.¹⁵

EYNESHAM, ABBOT OF, *v.* HARECOURT AND OTHERS.¹

A. To the kyng our Souereyn Lord

1503

Humble sheweth vnto your noble highnes
your dayly Oratour milys² Abbot of your³

¹¹ I.e. fled to sanctuary. He was privileged from arrest here because his offence was a felony. In 1378, in response to complaints by Parliament of the abuse of the Sanctuary at Westminster, the King took the advice of 'certains Doctours en Theologie de Canoun et de Civil' who held 'qe en cas de dette, d'acompte, ne pur trespas fait, si homme n'y doit perdre vie ou membre, nully doit en saint Esglise avoir Immunité.' They held further that no prince or pope had power to grant immunity in such cases (Rot. Parl. iii. 37, a, b). This opinion was adopted, except that 'pour especial affection que nostre dit seigneur le Roi ad au dit lieu de Westminster plus que a aucun autre lieu de Son Roiaume,' a special privilege was conferred in favour of persons indebted otherwise than owing to their own defaults (ib. 51, a, b). Westminster, and some other sanctuaries, called 'private,' protected the criminal for life; general sanctuaries, as churches, only for forty days, within which the criminal had his option of abjuring the realm. Reeves, 'Hist. of Eng. Law' (ed. W. F. Finlason, 1869), iii. 191.

¹² Herrings.

¹³ In W. Stodham's hand. He was presumably attorney for the defendant. 'Originally there were but two attornies appointed in the Court, one for the plaintiff, another for the defendant' (W. Hudson, 'Of the Court of Star Chamber,' p. 45). Hence 'my fellow.'

¹⁴ 1502.

¹⁵ 1504.

¹ S.C.P. Hen. 7, No. 34.

² Miles Salley or Sawley. The name was probably that of the place of his birth, adopted at his profession, as was then the fashion (see R. Holinshed, 'Chronicles' [1808], p. 213). This would either be Sawlay in Derbyshire or Sawley or Salley in Craven, Yorks, for the pronunciation of the name may be inferred from this variation in the spelling which also occurs in the name of Arthur Sawle, Sale or Salley in 1546 (C. W. Boase, 'Register of the University of Oxford' [1885], i. 212). Antony Wood ('Ath. Oxon.' ii. 711, ed. 1815) conjectures that he was educated at Gloucester College, 'afterwards Gloucester Hall, begun at first to be built by and for the monks of Gloucester of the Order of St.

monasterie of Eynesham⁴ within the Countie of Oxenford of dyuerse riottes extorcions wronges and inuries done to hym and his Couent⁵ by sir Robert Harecourt⁶ knyght and dyuerse oder

Bennet' (id. 'Colleges and Halls' [ed. 1786], p. 629). The Christian name of Miles, latinised as Milo, was so extremely rare in the fifteenth century that it does not once occur in the Register of the University of Oxford between 1449 and 1463, after which date there is a gap till 1505. He probably took his degree, therefore, after 1463. In a list of the bishops of Llandaff given by Leland, 'Collectanea' (ed. T. Hearne [1760], I. ii. p. 348, f. 473), he is entered as 'eleemosynarius de Abbendun,' also a Benedictine house. According to Willis, followed by the editor of Dugdale, he was elected abbot of Eynesham in 1498, but this date is incorrect, for he was returned by the commissioners of inclosures in 1517 as having, as abbot, inclosed land at Little Rollright on Nov. 4, 1496 (I. S. Leadam, 'Domesday of Inclosures' [1897], i. 328). Custody of the temporalities of the see of Llandaff was granted him on Nov. 14, 1499 (Le Neve, 'Fasti Eccl. Angl.' [1854], ii. 250, n. 11). The Canterbury Register shows that he obtained a licence for his consecration on March 13 (according to Kennet in Wood's 'Fasti Oxon.' ii. 711, n. 5, on March 10), 1500 (Le Neve, ii. 250), and received the temporalities as bishop of Llandaff on May 12 following (ib.). He held the abbacy in commendam with his see (ib. n. 9). In 1501 he entertained prince Henry at Eynesham. If an inference may be drawn from the circumstance that during the first six years of the reign of Henry 8 he was constantly nominated upon the commission of the peace for Oxfordshire, but never for Wales, it would seem that he generally resided at Eynesham. On August 16, 1515, he was put upon the commission of the peace for the towns of Uske, Caerlion and Trillek in the Marches of Wales (S. P. Dom. Hen. 8, II. i. 815). On November 15 of the same year he was among the bishops present in Westminster Abbey upon the occasion of the reception by Wolsey of the cardinal's hat (ib. 1153), and he was also sitting in Parliament in the same month (ib. 1131). His last nomination on the commission of the peace was for the town of Oxford on August 22, 1516 (ib. 2292). His will is dated November 29, 1516, and was proved on January 22, 1517 (Le Neve, *supr.* cit. n. 12). Wood states incorrectly that he died in September 1516. Godwin ('De Praesulibus' [ed. 1743], p. 611) gives the date as towards the end of December of that

year. He was buried at Bristol in the chapel of the Black Friars' priory called the Gaunts, afterwards known as St. Mark's Church (Dugdale, 'Monast.' VI. iii. 1492; Godwin, *supr.* cit.), now known as the Mayor's Chapel; the east end of which he rebuilt, and where his recumbent effigy in full episcopal robes is still to be seen (A. Wood, 'Fasti Oxon.' *supr.* cit.; J. Murray, 'Handbook for Gloucestershire' [1895], p. 82). He built some portion of the abbey of Eynesham, as the date 1504 visible in a gateway in 1819 showed (Dugd. 'Monast.' iii. 11), and a large part of the palace at Mathern, Monmouthshire, inhabited by the bishops until 1706, much of which remains (Godwin, *supr.* cit.; J. Murray, 'Handbook to S. Wales' [1890], p. 5). His will is abridged in Sir N. H. Nicolas, 'Testamenta Vetusta' (1826), ii. 538. He left books to Eynesham, and his mitre and staff to the cathedral of Llandaff.

³ Note the recognition of the king as superior lord. In the charter of William 1 confirming the ancient foundation occur the words, 'Abbatia autem in meo dominio maneat sicut caeterae per Angliam' (Dugd. 'Monast.' iii. 14), in conformity with which the dissolution of the monasteries was preceded by a formal surrender into the king's hands.

⁴ Eynesham, Eynshom, or Egnesham, a Benedictine Abbey, founded by Aethelmarc or Ailmer, earl of Cornwall and Devonshire, before A.D. 1005; surrendered in 1539, at which time its revenues were 182*l.* 2*s.* 4*d.* per annum. In 1535 they had been valued at 421*l.* See Dugd. 'Monast.' iii. 3.

⁵ 'The early form of "convent," common down to seventeenth century.' J. A. H. Murray, 'Engl. Dict.' s.v. Note that it is here used of the brethren exclusively of the abbot. Murray quotes in illustration (int. al.) Prynne, 'Remonstrance against Shipmoney' (1636), 7: 'The Abbot without the Covent, the Master of the Colledge without the Fellowes.' It is correctly distinguished here from the house or 'monastery,' but the use of 'convent' in this sense is as old as the thirteenth century. See Murray, *l.c.*

⁶ Grandson of Sir Robert Harecourt who was elected K.G. in 1463 (Anstis, 'Register of the Garter' [1724], pp. 171, 185), was killed on the side of the Yorkists in the Lancastrian rising of 1470 and buried in Stanton-Harcourt church, where the tombs of both grandfather and grandson may yet be seen.

evyll disposed persons to hym belongyng and retayned.⁷

First where one John Welshe oderwise called Sawyar a seruaunt to the saide sir Robert desired and prayed instantly one Dan⁸ Roger Walyngford one of the comounes⁹ of the said monasterye havynge the rule of the waters and nettes of your said monasterie that he mought haue his draught nett to fysshe his waters of

Curiously enough, the defendant's tomb exhibits in front 'four monks in black holding their beads' (Earl Harcourt, 'Account of the Church and Manorhouse of Stanton-Harcourt' [1808], p. 15). The defendant was eldest son and heir of Sir John Harcourt, knight, by Anne, daughter of Sir John Norris, knight, of Bray. He is said to have carried Henry Earl of Richmond's standard at Bosworth after the fall of Sir William Brandon, but he was not standard-bearer to Henry after he became king (Campbell, 'Materials,' i. 382). He served as high sheriff of Oxon and Berks in 1492-3 (J. M. Davenport, 'Lords Lieutenant and High Sheriffs of Oxfordshire' [Oxford, 1868], p. 9). He was Esquire of the Body to Henry 7 in 1501 according to Lipscomb ('Hist. of Buckinghamshire' [1847], iv. 590), but his name is among the list of knights dubbed of the Bath at the creation of Henry duke of York on October 31, 1494, and he was made a knight banneret at the battle of Blackheath, the suppression of the Cornish rising on June 17, 1497 (W. C. Metcalfe, 'Book of Knights' [1885], pp. 25, 27). In 1498 the University of Oxford addressed to him a letter in eulogistic terms as a man of the highest influence in the county ('qui maxime in comitatu potes') requesting his neutrality in a lawsuit in which one of his dependants was plaintiff (H. Anstey, 'Epist. Acad.' ii. 649). He married Anne or Agnes, daughter and heir of Thomas Limericke, esq., and widow of William Tame. By her he left a son, John, who died without issue, and four daughters (Lipscomb, l.c.). Sir Robert perhaps died about 1509, for on June 14 of that year a grant was made to Anthony Fetyplace, Squire of the Body, to be steward of 'Suffolk's land' in the county of Oxford and master of the hunt in Ewelme Park, as held by Robert Harecourte and William Tyler (S. P. Dom. Hen. 8, i. 174). After this his name does not appear in the Domestic State Papers of Henry 8's reign.

⁷ A suggestion that either the Act of 1468 or that of 1487 against unlawful retainers had been contravened (see the

defendant's plea on p. 157). Of these Acts the former was general and, while confirming the existing laws against giving liveries, forbade persons of all ranks to 'give any such Livery or Badge or retain any person other than his menial servant, officer, or man learned in the one law or the other by any writing, oath or promise' under penalty of a fine of 100 shillings for each badge given and a hundred shillings a month to which both parties were liable during the retainer (8 Ed. 4, c. 2). In view of the fact that Sir Robert Harcourt held office from the Crown as steward of 'Suffolk's land' and master of the hunt in Ewelme Park, the Act which the plaintiff's counsel probably had in mind was that passed in 1487. It is intitled 'An Acte agaynst retaynyng any of the kynges tennantes' (3 Hen. 7, c. 12). It recites that, among other royal officers, the 'Maisters of Game and keepers of his (the King's) Forestis Chaces Parkes and Warens' were both retained themselves and retained others, whence 'greate unsuertie hath grown afore this time aswell to his Highnes as to his progenytours.' It strictly forbade this practice and added that if 'eny of the seid officers convey eny of the seid Tennantes Inhabitauntez or Fermours to the kyng to eny feld or assemble or rowte, otherwise then by the kynges commaundement to doo hym such service as he shall be commanded and that alwey in the kynges lyverey or signe with a conysaunce of hym that soo convey theym by the kynges commaundement' the grants to the offending officer should be void. A rout, according to Brooke, is where three or more actually do an unlawful act of violence, either with or without a common cause or quarrel. Abr. tit. Riot (ed. 1573), p. 231.

⁸ A corrupt abbreviation from dominus, 'used in addressing or speaking of members of religious orders.' J. A. H. Murray, 'Eng. Dict.' s.v. Its equivalent 'Dom' is still prefixed to the Christian name of Benedictine monks. Id. s.v. Dom.

⁹ I.e. co-moynes, fellow-monks, as frequently in Year-books.

the Temssyde havyng therfor as it is accustomed in the Contree, that is to say the thirde parte and when the said water was drawed and fysshed the said dan Roger lefte the poysyng¹⁰ stones of the said draught nett in an Ile land perteynyng to the Ferme of the said John and brought home his nette with hym ageyn, which was the xix day of Septembre last past, and the xvj day of February then next folowyng the said Dan Roger and one Cristofre seruauant of the said monasterie of thage of lx yeres and more came into the said Ile land with the bote of the said monasterie for to fetch the said stones ageyn, And the forsaid John Welsshe perceyvyng theym beyng ther came pryvely whill thei wer in the said Ile land gaderyng the sayd Stones and toke a way ther said bote and sedyciously¹¹ rowed the said bote away, entendencyng to haue destroyed theym and so left theym ther like to haue bene perished, For it was colde weder and froste. And the said Dan Roger and Cristofre wer enviroind with water by the space of half a myle. Thei perceyvyng the malece of the said John cried for helpe and so atte last one Raffe mury herd and cam to theym with a Bote and caried theym to land, or elles that nyght thei had bene destroyed for colde and with the water.

Also the xv day of marche the said John Walsshe came with an oder bote of his owen into the Seuerall water within the Orchard of the said monasterie and ther tied his said bote, and then the officers of your sayd monasterie perceyvyng the said bote ther for the hurt harme and gret damage done to your sayd

¹⁰ I.e. weighing down, in the sense used by Shakspeare—
 'Lest leaden slumber poize me down
 to-morrow
 When I should mount with wings of
 victory.'

Rich. 3, v. 3.

¹¹ I.e. quarrelsomely, provocatively. Cp. Wiclif, St. Mark, c. 15: 'And oon there

was that was seid Barabas that was bounden with men of discencioun that hadden doon manslaughter and sedicioun.' C. Richardson, 'New English Dict.' (1844), s.v. In this meaning the word 'seditious' follows the Latin. 'Ego illam (Clodium) odi. Ea est enim seditiosa; ea cum viro bellum gerit &c.' Cic. Ep. ad Att. II. i. 5.

monastere, as fettyng¹² ther dyuerse tymes willes¹³ and nettes of your said monasterie toke a loke¹⁴ and lokked his said bote to a tree, and when the said John perceyued that his bote was fast lokked, that he coulde not haue it a way, he retourned home to his house, and fett a bill,¹⁵ and an hangger¹⁶ and came ageyn forsaibly into the said Orchard ouer an high wall there metyng with ij of the monkes manysshynge and thretyng theym callyng theym Churles and thevys, and vpon that did smygth att one of the said monkes with the said bill and smytte hym down to the grounde, and his Felawe perceyuyng the maliciouse disposicion of the sayd John avoyded, and the said John pursued after hym to haue slayn hym.

Also the xxij day of the said moneth on tenebre¹⁸ Wedonsday¹⁹ at seruice tyme martyn Whithill Thomas Cater John Vaughan Robert Smyth Thomas Bodam of Staunton harecourt²⁰ Robert Walton and Edmund Spark of Sutton in the lordshippe of Staunton seruantes reteigned⁷ with sir Robert Harecourt came with force and armys that is to say with byllys Swerdes and dagars and oder wepons, and entred into the

¹⁷ Sir Robert Harecourt saith vpon his othe that he was not privie to any thing in thies articles surmised, neither woting willing neither assenting to any of thaim.

¹² I.e. Stealing. This meaning of the word 'fet,' an obsolete form of 'fetch,' is not given in Murray's Dict. sub 'Fet,' but he quotes 'Piers Plowman' (B. iv. 51) and Fletcher's 'Beggar's Bush,' v. 1, for the use of 'fetch' in the same sense.

¹³ Wiles, i.e. snares.

¹⁴ Apparently of the nature of a padlock, but I can find no mention of such an article in Nicolas's 'Testamenta Vetusta' nor in Lacroix's 'Illustrations of the Middle Ages.'

¹⁵ See p. 165, n. 5.

¹⁶ 'A kind of short sword, originally hung from the belt.' J. A. H. Murray, 'Eng. Dict.' s.v. By the Act 1 Rich. 3, c. 12, § 2 (1483), 'No Merchant Straungier (shall) bring into this Realme . . . Knyves, Hangers, Taillourshires, Scissors, Andyrans.' ib. In J. Skelton's 'Engraved Illustrations of Ancient Armour,' I. plate lxii., are some engravings of hangers, otherwise called anelaces or onlaces, from which it appears that they were short double-edged swords or long daggers, broad at the hilt and

tapering to a point. Chaucer, Prol. 357, 'An anlaas . . . Heeng at his girdel.' See Murray, Eng. Dict. s.v. Anlace.

¹⁷ In another hand.

¹⁸ The Wednesday before Easter, so called because at the office of Matins and Lauds a triangular candlestick with fifteen candles was used, one of which was extinguished after each psalm. W. Smith and S. Cheetham, 'Dict. Christ. Ant.' (1880), ii. 1952. S. & C., however, state that the word 'Tenebrae' was used of the last three days of Holy Week only. J. O. Halliwell, 'Dict. of Archaic Words,' gives 'Teneble Wednesday.'

¹⁹ This gives us the date. Tenebre Wednesday being March 23, Easter Day was March 27. This was only in the year 1502 during Henry 7's reign. J. J. Bond, 'Handy Book of Dates' (1866), p. 235.

²⁰ About two miles S.S.W. of Eynesham, where was the manor house of Sir Robert Harecourt.

said orchard ayenst the kynges peax commyng ouere the wall of the said orchard²¹ with oder evell disposed persons beyng without the wall redy to assist theym to the nombre of xj persons, whose names wer martyn Whithill howsold seruaunt to the said sir Robert Harecourt & John Cokkes with oder moo bryngyng with theym an axe to hew down the said tree that the bote was lokked too, and so forciably to cary it away, and to be avenged on suche persons as did arrest the said bote, and at such season as thei wer ther was iiij of the monkes walkyng in the said Orchard, and thei seyng theym ther thei retorned bak to the prior and shewed hym of the said persons, but what thei entended thei knewe not. Wheruppon the said Prior came to the said persons and enquired of theym why thei came thear so suspiciously ouer so high gret walles beyng deched xv fote brode in such forciable maner, and thei ounswerd Horson Charles delyuer vs the bote that ye have arrested, or elles we woll have it whether ye will or noo, and also be revenged vppon you or we depart this grounde And the said prior seyng theym so wilfully and unreasonably disposed satisfied theym with good and cold²² wordes. Wheruppon thei departed.

Also the xth day of Aprill then next ensueng which was Lowe Sunday²³ came Thomas Cater John Vaughan John Welsh John Stokelay Thomas Badam John Hepy John Broughton

²¹ In an Extenta Manerii et Abbathiae de Egnesham, given in Dugd. 'Monast.' iii. 16, is a description of this orchard 'adjacente uno largo gardino cum viviis pro piscibus recenter inponendis et custodiendis et cum arboribus et ortis pro fabis plantandis, plantisque olerum, porectis, canabo, lino et multis aliis herbis necessariis domus proficientibus. Et valet gardinum praedictum cum proficuis hujusmodi ab eo proveniendis per annum juxta veri valoris estimationem quadraginta solidos.'

²² Cool, unimpassioned. Cp. Fisher, Works, 269: 'His delyng in tyme of perylles and daungers was cold and sobre.' J. A.

H. Murray, 'Engl. Dict.' s.v.

²³ There must be a mistake here. If the Abbot was right in his first date, and Tenebre Wednesday was March 23, Low Sunday must have been April 3, it being the Sunday after Easter. If Low Sunday was April 10, then Easter Day must have been April 3. Now Easter Day only fell on April 3 twice during the reign of Henry 7, viz. in the years 1491 and 1496. But at the later of these dates the plaintiff had not yet been elected abbot of Eynesham (see note 2, supra). It follows that the day was either Low Sunday, April 3, or the Sunday after Low Sunday, viz. April 10.

Edmond Sparke Robert Smyth John Nele Richard Sharpe and Spephon²⁴ Swaynford with oder persons vnknown seruauntes retained to said sir Robert Harecourt into the Toun of Eñesham with force and armes, that is to say²⁵ also with bowes & arrowes swordes buklers hawberkes²⁶ billes and dagars, and then & ther went into dyuerses howses and sought and enquired if any seruaunt perteynyng to the Abbay myght be found, And so it fortunied that thei mett with an innocent body, one John Hadley Clerk of the Church of the said monasterie hauyng a botell on his hand to fett oyle for the said Church, and ther violently the sayd Thomas Cater smytt the said John Hadley with a dagar and sore hurt and wounded hym on the hed, wheruppon the said Clerk retourned into your said monasterie and shewed the prior and Couent beyng at Soper how thei had betyn and hurt hym and that thei wer commyng after hym. Vppon whiche shewyng the said Prior did send for the constable²⁷ and the tythyng

²¹ Sic. As appears below, a blunder for 'Stephon.'

²⁵ An erasure of about eight inches in length follows.

²⁶ The use to which these were presently put shows that this is a variant (unnoticed by Murray) of 'haubert,' a form of halbert, and has nothing to do with the knightly 'hauberk.' The halbert differs very little from the bill, being like it constructed both for cutting and thrusting. The blade of a halbert consists of three parts, the spear, the hatchet, and the flook or hook. The first is intended for thrusting or charging in battle; the second for cutting, and the third for pulling down works made of fascines, in an attack on trenches or other temporary fortifications.' F. Grose, 'Milit. Ant.' (1801), i. 130. Representations of halberts are to be found in J. Skelton, 'Anc. Arms and Armour,' ii. pl. xc. In 11 Hen. 7, c. 64 ('Actus convictionis certarum personarum') occurs 'Armours defensives as Jakkes, Salettis, Brigandynes, Bowes, Billes, Haubertis, Curesses, Gannes, Speres, Marespikis, Crosbowes, and other enhabillmentis of Werres.'

²⁷ A title gradually declining in importance. Originally 'comes stabuli,' the

prefect of the Imperial Stables or Master of the Horse. The Constable 'stallarius' was a high official before the Conquest, and after the Conquest was styled 'Constabularius Angliae.' The last Constable of England was Edward Stafford, Duke of Buckingham, beheaded May 17, 1521. The office of Constable was also attached to Manors which had the right 'pur garder les prisons,' Stat. Westm. I. c. 15 (1275), and is reckoned by Littleton (§ 379) as an 'estate upon condition.' This is doubtless the origin of the Constables of fortresses. By the great Police Act of Edward 1, called the Statute of Wynton (1285), it was enacted that 'en chescun hundred e fraunchise seyent eleus deus Conestables a fere la veue des armes' (cf. Worcester, Bp. of, v. Thomas and others, p. 230, n. 5). But Bracton, who died in 1268, speaks of Constables in association with sheriffs, as though Constables of Hundreds or of Counties were in existence (f. 337). It would appear from the Statute 5 Ed. 3, c. 14 (1331), that at that time there were Constables of Towns, upon whom was cast the duty of arresting suspicious strangers under the provisions of the Statute of Wynton ('soient arestuz par les Conestables des villes'). At a later

men²⁸ to see the peax kept, And thereuppon the said Constable and tythyng men charged the said riotouse & evell disposed persons to kepe the peax in goddes name and the kynges, and thei diffied theym and put theym in ieopardie of their lyves, And so incontinent²⁹ came to the yates³⁰ of the said monasterye and shott in arrowes puttyng the Prior and Subpriour in ieopardie of their lyves, and hewed at the said yates with their billes and lyfted theym then out of the hookes with their hawberkes. Then thei within the yates as the porter with oder sett tymbre ayenst the gate and did vnder sett³¹ it ageyn, And then thei toke their hawberkes & hewed at their legges vnder the yate, And then thei made an out Cry and called for Strawe

date towns, as Lynn in 1480, were divided into constabularies, the constables being nominated by the people but elected by the jurats (A. S. Green, 'Town Life in the Fifteenth Century' [1894], i. 307, ii. 415, n. 1, 421). By the sixteenth century, constables had become an object of ridicule, as in William Bullein's 'Dialogue' (1573), and in Shakespeare. In 1869 the office of Constable of a Hundred or High Constable was abolished by 32 & 33 Vict. c. 47. A writer in 'Notes and Queries' (8th ser.), x. 297, states that the office of High Constable still exists in Caerphilly Higher and Miskin Higher, Glamorganshire, as well as in the City of Westminster.

The Constable in this case did not represent the Manor, for neither the charter of William I nor of Henry I grants any franchise, and even the assize of bread and beer was subjected to a Quo Warranto (Dugd. 'Monast.' iii. 17). He was the Constable of the Town, as is explicitly stated in C, p. 160, *infra*, and he and the tithing-men were the officers of the peace of the district; cf. the title of William Lambard's 'The Duties of Constables, Borsholders, Tithing-men, and such other Lowe Ministers of the Peace' (ed. 1610). The Hundreds-man and the Tithing-man are both mentioned together in the laws of Edgar, § 4 (R. Schmid, 'Die Gesetze der Angelsachsen' [Leipzig, 1858], p. 184), as the responsible police of the district. The Hundreds-man became the Constable of the Hundred, or High Constable (see preceding note). 'Every Constable, petie Constable, Tithing-man and Borowhead be Conservators of the Peace by their offices within the limits of their Hundreds, Towns,

Tythings and Boroughs. Y.B. 12 Hen. 7, 17, Fineux.' W. Lambard, 'Eirenarcha' (ed. 1610), p. 14.

²⁸ The tithing was a police division. Upon the question whether it was originally a personal or a territorial division, see W. Stubbs, 'Const. Hist.' chap. v. Professors Pollock and Maitland appear to be of opinion that the Tithing was a group of twelve or more persons in the Midlands, and a district in the South. The number of twelve was a tithe of the Anglo-Saxon long hundred of a hundred and twenty (Stubbs, *l.c.*). In the South the vill became recognised as a tithing. 'The tithing-man is the tithing-man of a place, of a vill or hamlet' (P. & M., 'Hist. of Engl. Law' [Cambridge, 1895], i. 554-8). Qu. whether in this case the tithing-men summoned were the tithing-man of the town of Eynesham and the tithing-man of the tithing of the Hundred of Wootton, in which the town was situate.

²⁹ I.e. in *continenti tempore*, in continuous time, without an interval. Cf. R. Higden, 'Polychronicon' (Rolls Series, 41), v. 393: (transl.) 'where he diede in *continenti* after he hade seide so.' J. A. H. Murray, 'Eng. Dict.' s.v.

³⁰ A common dialect form in Yorkshire, Derbyshire, and the northern Midlands generally. See Joseph Wright, 'English Dialect Dictionary' (1900), ii. s.v. Gate.

³¹ Prop up. Cf. Gower, 'Confessio Amantis,' b. v.:

'That thei the werke shuld vndersette
With tymbre.'

C. Richardson, 'New Eng. Dict.' (1844), s.v.

and Firzes for to sett fire on the yates & on the said monasterie More ouer the said evell doers afterward went to Staunton, and arraysed³² vpp more people that nyght, and drave the said Prior to ordeigne men for the Save Gard of theym and the monasterie to watche al nyght vnto the next morowe that thei sent for ij Justices of the peax maister William Harecourt³³ and M^r Eggecombe³⁴ of Oxenford. Vppon the which m^r William Harecourt cam to the toun of Enysham beforesaide and charged the Constables³⁵ and Tythyng men³⁵ to see goode rule kept rebukyng one John mury William Wode

³² Arraise, araise, &c., an obsolete form of 'raise,' J. A. H. Murray, 'Eng. Dict.' s.v. araise.

³³ William Harecourt, of Cornbury Park, Oxfordshire, first cousin once removed of Sir Robert Harecourt, being second son of Sir Richard Harecourt and grandson of Sir Thomas Harecourt, the great-grandfather of Sir Robert Harecourt. He was lord of the Manor of Corfe Moylen, Dorset. Lipscomb ('Hist. of Buckinghamshire,' iv. 590) leaves a blank for the name of his wife, but in W. Kennett's 'Parochial Ant.' (Oxford, 1818), ii. 394, occurs a memorandum of John Chedworth, Bishop of Lincoln, dated June 11, 1454, as follows: 'Dominus concessit licentiam vicario ecclesiae de Bygnell ad solemnizandum matrimonium inter Willemum Harecourt armigerum et Elizabetham Stokys filiam Johannis Stokys in capella infra manerium de Burcestre situata dum tamen nulli per hoc fiat praejudicium.' John Stokes was High Sheriff of Oxon in 1436 (J. M. Davenport, 'Lords Lieut. and High Sheriffs,' p. 9) and Knight of the Shire in Parliament in 1459 (J. M. Davenport, 'Oxfordshire Annals,' 1869). It is, however, possible that this was a first or second marriage of his uncle, Sir William Harecourt, Knight, who, according to Lipscomb, married Anne Horne. This seems the more probable because 'armiger' is properly the title of the eldest son, and although Sir William Harecourt was the second son, yet after his elder brother Sir Robert Harecourt, K.G., had been knighted, the second son may have borne the title of armiger. (See 'Select Cases in the Court of Requests' [Selden Society], 1898, p. 147, n. 4.) William Harecourt served as High Sheriff of Oxfordshire and Berks (the two counties being united under one shrievalty) in 1491-2, 1503-4 and in 1510-11

(Davenport, l.c.). P.R.O. List of Sheriffs, pp. 108, 109.

³⁴ Presumably John Eggecombe, of St. Aldate's, Oxford, owner (perhaps inheritor from John Edgecumbe, gentleman [flor. 1434], H. Hurst, 'Oxford Topography,' p. 37) of Trill-mill Hall, in Grandpont Street, which he converted into a brewhouse (A. Wood, 'City of Oxford' [ed. A. Clark, 1889], i. 201, 300). He was Mayor of Oxford in 1484, 1485, 1491, and 1497, and an Alderman in 1503 (ib. iii. 25, 26), in which year he was nominated a commissioner to raise the feudal aids demanded by the King both in the town and county of Oxford (Rot. Parl. vi. 538, 542). His will was proved in 1515 (J. C. C. Smith, 'Index of Wills,' i. 184), and he was buried in St. Aldate's (A. Wood, 'City of Oxford,' iii. 199, n. 1). He left a sum of money for prayers for his soul at the annual service on St. Scholastica's Day, on which the Town made submission to the University. See A. Wood, 'Hist. of the University' (1792), i. 473. See also H. Hurst, 'Oxford Topography' (Oxford, 1899), p. 50.

³⁵ Although by the Act 13 Hen. 4, c. 7 (1411), two justices with the sheriff or undersheriff were needed to record and certify riots, it had recently (Y. B. 14 Hen. 7, f. 9) been held by Fineux, C. J., that any one justice may suppress rioters (W. Hudson, 'Treatise of the Court of Star Chamber' [1792], p. 85. Cp. also p. 236, n. 7, infra). As reason has been shewn for the belief that the abbey had no franchise, it may be inferred that one or both of the Constables of the Hundred of Wootton had appeared on the scene, accompanied by one or more of the tithing-men of the Hundred, in addition to the Constable of the Town. See n. 27, supra.

³⁶ In another hand.

³⁷ Sir Robert Harecourt had a manor

³⁶ The said Sir Robert saith that he supposithe that such Inditmentes ther be as be in this article contaigned but he was at the time of thos Inditments found in Staffordsher³⁷ & had noo knowledge therof vntil they were past.

and oder perteynyng to sir Robert Harecourt to suffre and maigten³⁸ any such evyll disposed persons, which he wold lay to ther Charge herafter. And notwithstanding the premisses, the said sir Robert Harecourt with his adherentes of very pure malece, without any occasion or lawfull cause geven vnto hym or any of his, hath vntruly indited³⁹ certeyn of the monkes of the sayd monasteris at Islype of Felony that is to say one dan John Abendon of thage of iiij^{xx} and y yeres, Edward Westin Jameys Salley Roger Wallyngford and John Oxford⁴⁰ with mo beyng monkes of the same monastery to the gret hurt and impoverysshment of the same monasterie, And so vtterly he entendith to vn doo theym except your good grace to theym be shewed in this behalf. And yet after al this the said sir Robert Harecourt coulede not be content but attempted to indite moo of the saide monkes at the Sessions kept at Chepyng Norton, and ther al the Court knewe and perceyved that it was of wilfull malece, So that at that Cessions he coulede not opteigne his maliciouse purpose.⁴¹

and seat at Ellenhall, in Staffordshire, five miles N.W. of Stafford. S. Erdeswick, 'Hist. of Staffordshire' (ed. 1844), p. 134.

³⁸ Maintain. The Act 11 Hen. 7, c. 3 (1495) ('An Acte agaynst unlawfull Assemblies and other offences contrary to former Statutes') complains of obstacles being thrown in the way of justice by 'imbracery mayntenaunce corrupcion and favour.' In this petition, and perhaps in the Act, 'maintenance' is used in the sense of 'support.' In a strict sense it appears to mean either taking part in another's lawsuit or inducing another to embark in lawsuits. See Coke, on the Statute of Westminster the First, 2nd Inst. p. 212. Cf. p. 241, n. 1, *infra*, and *Introd.*, p. lxxv.

³⁹ Presumably at Quarter Sessions. In 1360 an Act (34 Ed. 3, c. 1) founded the jurisdiction of Quarter Sessions for counties and empowered the magistrates 'doier et terminer a la suite le Roi, tote manere de felonies et trespas faites en meisme la Countee.' Lambard conjectures that the grant of this power was accompanied by the assumption of the name of Justices in lieu of the more modest title of Conservators of the Peace. Marrow, whose read-

ing is among the Lansd. MSS. in the Brit. Mus., whom Lambard controverts, assigns the change to 18 Ed. 3, st. 2, c. 2 (1344). See 'Eirenarcha' (ed. 1610), p. 22. Although the statute of 1360 authorised the trial by Quarter Sessions of cases of murder, as a matter of practice the Justices of the Peace chiefly confined themselves to cases of theft, &c., involving, however, capital punishment. See J. F. Stephen, 'History of the Criminal Law' (1883), i. 113-115, where the history is given of the gradual disuse and eventual abolition by statute (5 & 6 Vict. c. 38) of the power of trying capital cases.

⁴⁰ Note that, with the exception of Salley, every one of these is the name of a place in the neighbourhood, which points to the fact that the religious houses were recruited from the surrounding country. There is a Weston in Berks and another in Northants. See note 2, *supra*. That the names were adopted on profession is rendered the more probable on comparison with the other names in the case, which are not, with the exception of Broughton, local.

⁴¹ See *Introd.*, p. cvii, *supra*.

³⁶ This article this deponent confessithe savyng he saith that he saw noo cerciorari and he dyd it vpon good ground as he saith as he was informed.

And more ouer the thursday next folowyng he caused a Sessions to be kept at Henley vppon Temys in the extreme parte of the Shire of Oxford which is more then xxvj myles from the said monasterie And ther caused dyuerse of the said monkes to be indited Some of Felony and some of Ryott, and some of both, and hath retourned the said inditementes into the Kynges Bench ⁴² notwithstanding a cerciorary ⁴³ to hym before delyuered.

Also the said sir Robert Harecourt contrary to the laudable statutes of this lande maynteneth ⁴⁴ certeyn evell disposed persons in the tounes of Eynesham and Cherlebury, that is to say, William Titte William a Wode Richard Serle Richard Reynoldes with oder evell disposed persons, So that the officers and seruauntes of your said Oratoures, when thei shall require any Rentres or oder dueties be so thretenned and imbraced ⁴⁵ with the said Sir Robert and his seruauntes that thei dare nor may peasable do your said oratour service.

⁴² Presumably with the hope of securing a conviction from a London jury. It was a legal doctrine that the removal of a record into the King's Bench was irreversible, except by Act of Parliament. Coke, 4 Inst. p. 73. It was the practice of criminals at this period, perhaps in order to secure a less prejudiced trial in London or to throw difficulties in the way of the prosecution, themselves to procure the removal of their indictments to the King's Bench. To check this the 'Acte concernyng felons and murderers' was passed in 1515 (6 Hen. 8, c. 6), empowering the justices of the King's Bench to remit such prisoners to their counties for trial.

⁴³ 'Certiorari is a Writ out of the Chancery to an Inferiour Court to call up the Records of a cause therein depending, that conscionable justice may be therein administred, upon complaint made by bill that the Party which seeketh the said writ hath received hard dealing in the said Court.' . . . 'Crompton, in his Justice of the Peace, fol. 117, saith, That this Writ is returnable in the King's Bench and then hath these words, Nobis mittatis; or in the Chancery, and then hath in Cancellaria nostra; or in the Common Bench, and then hath coram

Justitiariis nostris de Banco.' Cowel, 'Interp.' s.v.

⁴⁴ See n. 38, supra.

⁴⁵ This is a legal term used, as 'maintain' above, in a loose sense. 'Embraceour or embrasour, 19 Hen. 7, c. 13, is he that when a matter is in Tryal between Party and Party, comes to the Bar with one of the Parties (having received some Reward so to do) and speaks in the case, or privily labours the jury, or stands there to surveigh or over-look them, thereby to put them in fear and doubt of the matter. . . . But persons learned in the Law may speak in the case for their clients.' Cowel, 'Interp.' s.v. The statute to which Cowel refers is intituled 'De Riotis reprehendis' (1504), and recites that in the Act 13 Hen. 4, c. 7 (1411), respecting riots there is 'no mention therein made of eny punysshment of the maintenours and embracers of the Jurriours.' Similarly, the recital of the Acte for Writtes of Attaynt to be brought against Jurors for untrue Verdictes' (11 Hen. 7, c. 24), passed in 1495, speaks of 'unlawfull mayntenours, ymbrasours and Jurroures.' The next Act on the Roll of the same session is intituled 'An Acte agaynst Perjury unlawfull mayntenance and

This article he confessith thus that he com-
aunded the said persons
all but William bigar
to take Distresse⁴⁷ if
thabbot wold not pay
his fee, affor William
bigar was with them as
he saith. To the other
article he saith that he
sent onely ij of his ser-
uantes for thos oxen,
that is to say, Rauf
Charnels and oone or
ij to go with him how
many oxyn thay toke he
can not tell nor how long
thei wer kepte. He did
thaim to be takyn vpon
such causes as is ex-
pressed in his answer.

corrupcion in officers' (11 Hen. 7, c. 25), and
recites that 'perjuriegrowth by unlawfull re-
teynders mayntenaunce embrasyng cham-
pertie and corrupcion of goode aswell of
the Shirefs as of other officers,' these
persons, as the Act shows, being the
offenders. It thence appears that Cowel's
definition is correct and that the word is
properly applicable to tampering with trial
by jury. Sir Robert had, however, been
probably sworn by the commissioners
appointed for that purpose on 4 Jan. 1486,
that he would not 'any Mayntenaunce
Imbracery Riotis or unlawful Assembles
make, cause to be made, or assent thereto.'
Rym., 'Fœd.' xii. 280.

⁴⁶ 1502.

⁴⁷ 'Also if a man grant by his deed a
rent charge to another and the rent is
behind, the grantee may chuse whether he
will sue a writ of annuity for this against
the grantor or distreine for the rent
behinde. But he can not do or have both
together &c. For if he recovers by a writ
of annuity, then the land is discharged of
the distress &c. And if he doth not sue a
writ of annuity and the tenant sueth his
replevin and then the grantee avow the
taking of the distress in the land in a
court of record, then is the land charged,
& the grantor discharged of the action of
annuity.' Littleton, § 219 (Coke on
Littleton). Coke doubts the doctrine that
the grantee is estopped by taking a distress
from bringing a subsequent writ of annuity.
ib. 145a.

A corody (see p. 23, n. 18, also
n. 51, infra) was in the nature of a
rent charge, and was conceived to issue
from the religious house itself (prioratus

Also the xx^{ti} day of Octobre the xviii yere of
the Kyng our souereigne lorde,⁴⁶ the said sir
Robert Harecourt sent one Rauffe Charnes
and Edmund Cooke William Byger with other
of his seruantes⁴⁸ in to the seuerall pastures of
the seid monasterie and ther tok and droue
away ccc schepe thorowe myre and water to
Staunton,²⁰ which were worth at that tyme
xxx li⁴⁹ and then afterwardis the said Rauffe
Charnes came to Eynesham to the Abbot your
Oratour and said to hym that he hadde arestid
his forsaid shepe for iiij nobles⁵⁰ of his
masters fee⁵¹ due to hym atte feste of seynt
michell laste paste and so your said Oratour
seid he deseruyd no fee of hym and that he
wold trye with hym And thervppon your seid

sine abbathia vel alia domus est quasi
tenementum de quo talis redditus [a
corody] provenire debeat, Bracton, f. 180).
But Bracton expressly says that there is no
distrain for a corody, likening it in this
respect to a contract to pay an annuity
(*'hujusmodi praestatio est quasi praestatio
de camera,'* ib. Cf. P. and M. 'Hist. Eng.
Law,' ii. 133), and he refers the grantee to
the spiritual courts. By the Statute of
Westminster II. c. 25 (1285) the temporal
action of Novel Disseisin was assigned
to the grantee of a corody (P. and M.,
ii. 134). The statement of defence alleges
that 'a clause of distress' was in the deed
granting the 'fee.' Annuity deeds of this
kind were known to Bracton as issuing
from lay manors (f. 180).

⁴⁸ An erasure about two inches in length
follows.

⁴⁹ I.e. two shillings apiece. This is a
somewhat high price, for except in 1501,
when the highest price of muttons was at
the unprecedented figure of 3s. 4d., 2s.
had not been reached since 1496, and
1s. 10½d. and 1s. 10¼d. are the figures given
by Rogers for 1502 and 1503 respectively.
'Hist. Agr. and Pr.,' iv. 350.

⁵⁰ 1l. 6s. 8d., the noble being here
taken at 6s. 8d. But see *Idelle v. Abbot of
St. Benettes Holme*, A, p. 50, n. 5.

⁵¹ Cowel says that a fee is a reward
'given to one for the execution of his office,'
and the reply of the abbot seems to indicate
that Sir Robert's demand was for his fee in
this sense. Reasons have been already
adduced for the inference that this was
not a corody. According to Cowel 'Corody,
Corodium signifies in the Common Law
a sum of money or allowance of meat,

Oratour sent for a replevy⁵² which replevy sir Robert Harecourt wold in no wise obeye but kept the said shepe still by the space of viij dayes⁵³ So that for mysghydyng of the same shepe many of them the wynter folowyng were destroyed to the grett hurt of your said Oratouris and after that your Oratour paid hym xxvj^s viij^d by compulsion or elles they had bene all destroyed. Also the last day of Marche then next foliwyng the said sir Robert and his seruantes fetchid away out of your said Oratours plowes xvj Oxen⁵⁴ without demaund of any thyng dette or other And kept the same Oxen by the space of iij wekes So that your seid Oratour this yere was fayn to hire other plowes to erry⁵⁵ his lond which shuld be for the sustynance of hym and of his brethern the yere foluyng by reason whereof your said Oratour coulde not sowe the halfe of his said land to his

drink and clothing, due to the King from an Abbey, or other house of Religion, whereof he is the founder, towards the reasonable sustenance of such a one of his servants, being put to his pension, as he thinketh good to bestow it on. . . . It is also apparent . . . by the New Terms of Law, that a corody may be due to a common person, by grant from one to another, or of common right to him that is a founder of a religious house not holden in Frank almoine, for that tenure was discharged of all corodies in itself.' For examples of corodies granted by a religious house in return for a capital sum down see Bath, Prior of, v. St. Augustyn, Canterbury, Abbot of, pp. 28, 29, 32.

⁵² 'Goods may be replevied two manner of wayes, viz. by writ, & that is by the common law, or by the pleint, & that is by the statutes for the more speedy having againe of the cattell & goodes.' Coke upon Littleton, 145 b. In the latter case, the Sheriff would, without a writ, proceed to make replevin. Reeves, 'Hist. Eng. Law' (ed. W. F. Finlason, 1869), i. 49.

⁵³ In Bracton's day this was a very serious offence known as 'vetitum namii': 'cum injusta captio et detentio contra vadium et plegium dici poterit quaedam roberia contra pacem domini Regis, etiam plus quam nova disseisina' (f. 158 b). That the 'captio' was just made no difference: 'quamvis captio iusta vel injusta, tamen vetitum semper erit injustum'

(ib.) The Sheriff might thereupon raise a hue and cry and apprehend the offender. In the case of a person so powerful as Sir Robert Harecourt this course was scarcely likely to be taken. Nevertheless, in holding a plea 'de vetito namio' the Sheriff acted, not as Sheriff, but as 'justitiarius regis,' it being among the pleas or the Crown assigned to the Sheriff owing to the necessity of expedition where the ownership of animals was to be determined (ib. 155 b). By the Statute of Westminster II. c. 2 (1285) facilities were provided for removing these pleas to the royal courts. The Sheriff, Sir Richard Foulter, in this case appears to have taken no steps; an illustration, so far as it goes, of the ineffective operation of the law.

⁵⁴ From the bailiffs' rolls of Cuxham (1316-17) and Holywell, Oxford (1341), it appears that the plough team was four oxen or four horses. J. E. T. Rogers, 'Hist. Agr. and Prices,' i. 15, ii. 617, 655. Both Walter of Henley (ed. E. Lamond, 1890, p. 11) in the middle of the thirteenth century and Fitzherbert towards the middle of the sixteenth agreed that 'the ploughe of oxen is much more profitable than the ploughe of horses' ('Husbandry,' chapter intituled 'Whether is better a plough of horses or a plough of oxen').

⁵⁵ A form not noticed in Murray's Dict. Cf. the obsolete 'ear,' to plough. In Walter of Henley, p. 43, 'erybyll londe.' Cf. p. 259, n. 4, infra.

⁵⁵ Vnto this article he saith that the sayd Robert was tached by a warraunt vpon suspicions of felony and only by my persone.⁵⁸

hurte and damage of xx li and more. Also the iij^d day of April the said sir Robert Harecourt sent Edmund Cooke his seruauant with other persons to the numbere of xvj whos names your seid Oratour knoweth not to Eynesham and ther lay in a barne all nyght and by force toke away away⁵⁶ a seruauant⁵⁷ of your said Oratours callid Robert Lane without any warraunt or lafull cause as far as he knowith as yet.

Also the said sir Robert at euery sessions and assise wol not suffre the kynges lawes peasable with justice to be execute and especiall when any nisi prius shuld pass by twen partie and partie⁵⁹ yf the jury be not retourned after his mynde with his riotous adherentes he stoppith them with thretenyng and other meanes that the true proces of the lawes may not passe but after his wilfull and vnlawefull pleasurs insomuch at the last assise kept vppon the brige bisides Abyndon in the Countie of Oxon⁶⁰ he kept certayn

⁵⁶ Sic, repeated.

⁵⁷ In the time of William Rufus there were sixty-five servants at Evesham Abbey in attendance on sixty-seven monks, five nuns, three 'pauperes ad mandatum,' and three clerks. Of the servants five served in the church, two in the infirmary, two in the chancery, five in the kitchen, seven in the bakehouse, four in the brewery, four attended the bath, two were shoemakers, two were in the pantry, three were gardeners, three were porters, and five were in the vineyard, four attended on the monks when they went abroad, four were fishermen, four waited in the abbot's chamber, and two were watchmen. Dugd. 'Monast.' ii. 4. At Tewkesbury at the Dissolution there were 144 servants to wait on the abbot and thirty-eight monks, ib. p. 83, W. Dyde, 'Hist. of Tewkesbury' (1798), p. 146. See further T. D. Fosbroke, 'British Monasticism' (1843), p. 195. The abbey of Eynesham at the Dissolution contained eight monks besides the abbot. Dugd. 'Monast.' iii. 27.

⁵⁸ Added to the line in the same hand as the marginal notes.

⁵⁹ 'It is called a writ of Nisi Prius of these two words whereby the Sheriff is commanded to bring to Westminster the men impannelled at a certain day, or before the Justices of the next Assizes, Nisi die

Lunae apud talem locum prius venerint' &c. Cowel, 'Interp.' s. v. The statute originating the writ of Nisi Prius was that of Westminster the Second, c. 30 (1285), where the writ is given as follows: 'Praecipimus tibi quod venire facias coram iusticiariis nostris apud Westmonasterium in octabis sancti Michaelis, nisi talis et talis tali die et loco ad partes illas venerint, xii. &c.'; but Coke, 4 Inst. 159, gives it at greater length as follows: 'Rex vicecomiti salutem. Praecipimus tibi quod venire facias coram iusticiariis nostris apud Westmonasterium in octabis sancti Michaelis, vel coram iusticiariis nostris ad assisas in comitatu tuo per formam statuti nostri inde provisi capiendas assignatis, si prius die Lunae proximae ante festum &c. apud &c. venerint 12 tam milites quam alios &c.'

⁶⁰ The Justices of Assize in the thirteenth century held their sittings in villages as well as in the principal towns. Bracton sat as Judge of Assize at Exeter, Morchard, Molton, Torrington, Chulmleigh, Barnstaple and Umlerleigh. 'Note Book,' i. 17; P. and M., 'Hist. Eng. Law,' i. 181. By an Act of 1382 Justices of Assize and Gaol Delivery were ordered to sit 'in principalibus & capitalibus villis singulorum comitatuum, ubi videlicet comitatus eorundem comitatum tenentur vel in posterum tene-

⁵⁸ This article this deponent denyeth.⁵⁸

persons by violence in a Chambre and also letted oder persons to come to the said assise, as the Justices then beyng ther can more largely shewe and specially in ij matiers one concernyng your said Oratour and in An oder mater concernyng one Thomas Dentun Squier.

Also where William late Abbott ⁶¹ of the said monasterie & the Couent of the same place graunted vnder ther couent seale an annuitie of iiij markes ⁶² yerly goyng out of their manor of Eynesham a fore said to the said Robert Harecourt only to haue his Fauour help and counseill to the seid monastery your said Suppliaunt seith that the seid Robert is ther most extreme enmy distroyer and vndoer to his poure of the said Monastery as apperith by the articles and co(m)playntes aboue rehersed wherfor they prey to be discharged of the said annuyte. All which the premysses considerid that it may pleas your god grace to graunt seuerall writtes of Sub pena to be dyrectid aswell to the said sir Robert Harecourt Thomas Cater John Vaughan Robert Smyth Thomas Badam Robert Walton Edmund Sparke John Stokeley John Hepy John Broughton Stephan Swaynford William Titte ⁶³ John Sawier Richard Sparke Richard Serle Edmund Coke Richard Reynoldes John Neele John Cokkes Rauff Charnes William and ⁶⁴ Byger commaundyng theym by the same to appere before your highnes and your most honorable Counseill in the Sterre Chambre at Westmenster to answer aswell your highnes as your seid Oratour of the seid wronges riottes and extorcions before don and the same your Oratour shall alwey prey for the preseruacion

buntur' (6 Ric. 2, st. 1, c. 5). As 'the countie of Oxon' is specified here, the inference is that the assize was being held for Oxfordshire in violation of this Act. The assize court was perhaps the hall of the abbey, which is close to the bridge. See J. Leland, 'Itinerary' (ed. T. Hearne,

1745), ii. 14.

⁶¹ William Walwyn, 1469-1498 (Dugd. 'Monast.' iii. 2), as to which last date see n. 2, *supra*.

⁶² 2*l.* 13*s.* 4*d.*

⁶³ See next case, p. 162.

⁶⁴ Sic.

of your gracious astate long to endure to goddes pleasure.⁶⁵

(*Indorsed*) Termino sancte Pasche⁶⁶ anno Regni Regis Henrici vij decimo octauo.

Miles Episcopus Landauensis contra Robertum Harecourt militem et alios.

Coram domino Rege & Consilio suo apud Westmonasterium die Martis videlicet xxij die Maii proxime⁶⁷ futuro quo ad Robertum Harecourt militem ac ad alios infra nominatos in Octabis Ascensionis⁶⁸ domini proxime future.

B. Thanswer of sir Robert Harecourt knyght to the byll and Articles therin conteyned put ayenst him by Miles Abbot of Enesham.

The same sir Robert saith the gret parte of the mater comprised in the said bill is vntrue and by craft ymagined to put the same sir Robert to trouble and vexacion for malice that the same Abbot berith to him without cause for he saith it apperith clerly by the shewing of the said Abbot in the said bill that as to the v or vj articule in the said bill conteyned, that he is not gilty consentyng nor priuy to the doying of them, as by the same bill more pleylny apperith and for further declaracion of the trowght in the said mater towching the first Articule of the said bill for the takyng away of the bott by the said John Welshe from the said yle leuyng the same Dan Roger and the same Cristofer his seruauant within the same yle, the said sir Robert saith that the said John Welsch hath said and often tymes complayned that the said monke and Cristofer oftyn tymes with their said bott wold com to the said yle lond and there drawe the lepys¹ and storepottes with Fysche of the said welsche erly and late and had takyn the Fysshe away with them to thualo² of xl^s and Above at dyuers tymes as he supposid wherwith the said John welsche founde him sore grevid, and oftyn tymes wetched to espie the takers of the said Fysshe and coude not fynde them And at the said tyme of the takyng of the said botte, The said monke and his seruauant come with their

⁶⁵ MS. much injured in parts.

⁶⁶ 3 May—29 May, 1503. See J. J. Bond, 'Handy-Book of Dates' (ed. 1866), pp. 85, 235.

⁶⁷ Tuesday, 23 May, 1503.

⁶⁸ 1 June, 1503, *ib.* pp. 70, 79.

¹ Leap, leap, &c., a basket in which to

catch or keep fish. Cf. Act 25 Hen. 8, c. 7: 'No person shall take in . . . any wele . . . lepe . . . or by any other engyne . . . the yonge frye . . . of any kynde of salmon.' J. A. H. Murray, 'Eng. Dict.,' s.v. Leap.

² The value.

said botte in to the said yle for to Fysche and to drawe the said lepys and storepottes And not for to seche for any such stonys of nettes as is supposid in the said bill, And the said John welsche perceyuyng them there hauyng no Record with him by cause they shuld not after that deny it, caried away their said botte, thinkyng to them no harme but to haue their dede opynly knowyn, for there is a fery botte, and men kepyng the same neire the said yle which within an houre after conueyed them to the said Abbey,

AND AS to the ij^{de} article for teyeng of the botte in thorchard of the said monastery the said sir Robert saith that the same John Welsche infourmid him that the same John come with his bott to the comen landyng place of bottles in Enesham called thorchard ende, and from thens went to the said towne for the cariage of such stuf as he had to cary home, and after his departing oone of the monkes or seruantes of the said Abbey for malice that they bere vnto him for the takyng of the said Abbey botte in the said yle lond secretly conueyed the said botte of the same John Welsche into thorchyard of the said Abbey, And ther drownyd ³ the said botte, And the same John Welsche retournyng homward missed his said bott and hauyng infourmacion that the said bott was in the said orchyard, went in to the same to feche ayen the same botte And ther founde his saide botte drownyd, And ij of the said monkes of the said monastery there lyeng awayte for him purposely and perceyuyng him to come for his saide botte ther they him assautid sore bett and woundid and there him imprisoned so that he was not able by long space after to erne his levyng. The same sir Robert than beyng in Stafford Shire afor and also long after vnderstanding no thyng of the said demeanour in the said Orchard And after the same John welsche and diuerse othur supposid in the said bill and the monkes of the said monastery and othur the seruantes of the said Abbey frayed ⁴ to gedyr in the town of Enesham and at the said affrayes many wer by the monkes of the said Abbey hurt, but how thoy affrayes began or of whos sekyng the said sir Robert can not certenly telle, for he was than and long afore in Stafford shire, not knowyng of theis demeanours but at his comyng home out of Stafford Shir, which was a monith after hering the demeanour of the said

³ Cp. the 'Eng. Chron.' (Camden Soc. 1856), p. 43: 'On of the grettist carrakez . . . was so rent and bored in the sides . . . that sone after it was dround.' J. A. H. Murray, 'Eng. Dict.' s.v. It would seem from the narrative that a creek ran up the orchard and that in this they sank the boat. The word also means to drench, but

as it was already in the water, there would have been no point in carrying it out only to drench it.

⁴ I.e. came into collision. Cp. Merlin (1450), 524: 'Ther myght a man haue sein . . . many a shafte and shelde frayen to-geder.' *ib.* s.v.

persons with the said monkes as many as were his seruauntes there present which were but ij persons, and some of the Remenaunt were his tenauntes, he commaunded forthwith to warde to the stokkes⁵ in Staunton harecourt And there kept them by the space of v dayes and after dischargid the said John Welsche and Edmund parke his tenauntes of theire tenure and lond⁶ which they hild of the said sir Robert for their said misdemeanours AND AS to thindittament supposid to be done at the Sessions at Islipe, The same sir Robert saith that he was neuer priuy nor consentyng therunto for at the tyme of the forsaid affrayes committed and contynually after vnto the said Sessions were done he was in Stafford Shire as is abouesaid, not knowyng of the said affrayes nor Sessions keypyng. And as towching the Indictamentes at the Sessions at Henley, The said sir Robert saith that the said Sessions were the generall Sessions of the Shire, and he oone of the Justices of peax there sitting as it was there afor contynually vsid and there dyuers billys of complayntes were put in ayenst dyuers of the said monkes and othur at the said Sessyons, and proues therupon hard, and the said sir Robert no thing did there but as a Justice of peax ought to doo according to his othe concernyng thoffice of a Justice of peax. AND AS to tharticle that the said sir Robert or any of his seruauntes shuld lett the said Abbott in gadering vp of his duties⁷ in Enesham or othur places that he is not nor was guilty in any poynte in the said Article conteyned. And as to the takyng of the said Sheppe what the numbyr was he certainly remembirs not, but for the takyng of them he saith that aboute michaelmas last past

⁵ A punishment as old as the Anglo-Saxons. In Harl. MS. no. 603 is a picture of a man in the stocks. See also Thomas Wright, 'History of Domestic Manners,' &c. (1862), pp. 59, 116. By an Act of 1351 (25 Ed. 3, st. 2, c. 2) stocks were ordered to be set up in every town for the purpose of punishing servants who were guilty of offences against the statute fixing wages, &c. In 1352 the clergy complained that king's justices confined clerks in the stocks for a longer time than they did laymen (Rot. Parl. ii. 244 b). In 1376 the Commons petitioned that vagabond labourers should be confined in the stocks (ib. 340 a) and that stocks be set up in every town and village for this purpose (ib. 341 a), which looks as though the Act of 1351 had not been observed. This petition was the foundation of the Statutes of Labourers passed in 1388 by which wandering labourers were consigned to prison or the stocks (12 Ric. 2, c. 3, &c.). By an Act of 1406 (7 Hen. 4, c. 17),

following the precedent of the Act of 1351, labourers were to be sworn to observe the regulations of the Statutes of Labourers as to wages, &c., and on refusal to be fastened in the stocks for three days. In order to enforce the provision of stocks, every town or seignory which failed to supply them by the following Easter was rendered liable to a fine of a hundred shillings (ib.). Considering that three days in the stocks was held a sufficient penalty for infringing the Statutes of Labourers, the punishment awarded by Sir Robert Harecourt cannot be said to have erred on the side of leniency.

⁶ It is to be observed that John Welsche is described by the Abbot as 'seruaunt' to Sir Robert. He would probably be a tenant at will on the demesne. Cp. 'Trans. R. Hist. Soc.' (1892) n.s. vi. 255.

⁷ I.e. legal dues. Cp. Chaucer, Friar's Tale, 93: To reysen vp a rente, That longeth to my lordes duetee. J. A. H. Murray, s.v.

he sent to the said Abbott for xxvj^s viij^d than to him dwe for a fee which he hath out of the said Abbey vnder the conuent seall with a clause of Distres for non payment of the same, And the said Abbot refusid to pay the same, And the said sir Robert sufferid a monyth yet after, And for asmoch as the said Abbott than wold not content the said fee, he commaundid Rauf Charnels his seruaunt to Aske ayen the same fee And the said Abbot refusid to pay the same, wherfore the said seruaunt in peasible maner without any harnes distrayned the said Shippe And after the said money payd the said sheppe were delyuered forthwith. AND AS to the takyng of the said Oxon, The said sir Robert saith that oone John mery was bounde for the said sir Robert to the predecessour of the said Abbott for a certeyn summe of money And for the contentacion therof the said old Abbott and the said sir Robert agreed that the said olde Abbott shuld reteigne of his fee of iiij marc which the said sir Robert had of the said monastery vnder the couent seall vnto the said money were leuyed, And in the said old Abbottes dayes iiij li. was byhinde of the said fee which iiij the said sir Robert was content to goo to the contentacion of the said money, and after the said old Abbott died and the said now Abbot was elected Abbott And for malice that he berith vnto the said sir Robert he will not allowe the said John mery the said iiij li. but toke An Accion ayenst him for the same money. Wherfore the said sir Robert sent vnto the said now Abbott for the said iiij li. tharrerages of the said fee which to pay the said now Abbott refusid by force wherof the said sir Robert causid the said oxon to be distrayned in peasible maner without harnes by the said Rauf Charnels and them kepte by the space of v or vj dayes, and than at the request of a gentilman there callid Edmund Hampden⁸ the said oxon were delyuered. AND AS

⁸ Second son of Thomas Hampden of Hampden, Bucks (W. Kennett, 'Par. Ant.' ii. 460-1). He joined in the rising of Henry Stafford, Duke of Buckingham, against Richard 3 in October 1483, in which also John Harecourt, Sir Robert's father, was concerned (an instance of the revulsion of feeling produced in a Yorkist partisan by the suspicion of the murder of Edward 5 and his brother). Both Harecourt and Hampden were attainted of high treason by the Parliament that met on January 23, 1484, Hampden being described as 'Edmund Hampden, late of Fisherton, gentilman, sone to Thomas Hampden' (Rot. Parl. vi. 246). He probably escaped to Henry, then Earl of Richmond and a refugee in Brittany, and doubtless returned with him to England and fought at Bosworth,

for a month after Henry's accession he received a grant for 'true and faithful service as well beyond the sea as over this side' of the office of keeper of the royal park and forest of Woodstock (September 24, 1483, W. Campbell, 'Materials,' i. 53). His attainder was reversed by the first Parliament of Henry 7 (November 7, 1485. Rot. Parl. vi. 273). His grant was enlarged by another of March 6, 1486, which bestowed on him in addition the office of steward or lieutenant of the manor of Wodestoke, &c. (Campbell, 'Mat.' i. 357). In March 1487 he, being then an Esquire for the King's Body, was dispatched by Henry 7 to Oxford with a letter demanding the surrender of the Yorkist ex-Chancellor, Robert Stillington, bishop of Bath and Wells. He was undoubtedly selected for this mission as being

to the takyng of Robert Lane, The same sir Robert saith that he was suspectid of felony for stellyng of a horse of oone John a wod for asmoche as he toke the said horse in the nyghte out of the close of the said John awod and secretly the same horse kepte, wherfor the seruauntes of the said sir Robert knowyng him suspecte with the same him arrestid in peasible maner without any harnes how be it the said Abbott ought not there with to entermedill AND AS to that article that the said Abbott surmisith that the said sir Robert shuld lett justice to be doone at the Sessions Assises or othur places, he is not guilty of any thing in that Article comprised And as to the fee of iiij marc grauntid vnder the couent seall to the said sir Robert, which the same Abbott surmisith the same sir Robert to forfeit thorough his demeanour The same sir Robert saith that he hath alwey myndid the welth and honour of the said monastery, and hath done nothing to the hurt of the same except it were in the default of the said Abbott, for he saith that the said Abbott of his high and cruell mynde pykyth many quarells to his poore neyghburghs,⁹ which causes the said sir Robert hath avised the said Abbott to leue And in them wold neuer take parte with him which is the misdemeanour surmisid ayenst the same sir Robert. Without that that the saide John Welsche John Vaughan Robert Smyth Thomas Badam Robert Walton Edmund Sparke John

a persona grata to the University, of which he was high steward or seneschal (H. Anstey, 'Epistolae Academicæ' [Oxon. 1898], ii. 521). Nevertheless, the University refused, being, it would seem, Yorkist in sympathy, and it was not until the following October that Hampden succeeded in effecting an arrest and conveying his prisoner to Windsor (Anstey, pp. 516-23; Ant. Wood, 'Hist. of the University' [1792], i. 645; 'Dict. Nat. Biog.' sub Stillington). He does not appear to have matriculated or been otherwise a member of the University. On December 23, 1488, he was nominated on the commission of the peace for Oxfordshire (W. Campbell, 'Materials,' ii. 386), and in the following year (April 7) a commissioner of gaol delivery for the University, to try a scholar of the University (ib. 482). In 1491 a tax, of which the nature does not appear, was levied by Hampden, as high steward, and by certain collectors (quaestores) belonging to the King, which caused an outbreak on the part of 'the vulgar sort of scholars with other associates of the laity' (A. Wood, i. 649). A brother of Hampden, presumably engaged in the collection of the tax, was imprisoned by one of the proctors in Bocardo. This seems to have provoked a feud between Hampden and his supporters on the one hand and the University on the other, so

that in the same year the University wrote to the King, 'Vix quemquam ex nostris scolasticis viris in aliqua loca vestre Universitati vicina proficisci posse in quem fautores Edmundi Hampden non faciunt impetum' (H. Anstey, ii. 608). Henry, writing from Greenwich on April 5, 1492, informed the University that he had sent for Hampden, censured his conduct, and forbidden a repetition of it 'seu per se seu per suos complices' (ib. p. 609). Hampden had ceased to be high steward in 1491. He was knighted on February 18, 1503 (W. C. Metcalfe, 'Book of Knights,' p. 39), and in the same year was nominated a commissioner for collecting the feudal aids levied by the King (Rot. Parl. vi. 536).

⁹ There is so much justification for this that Abbot Salley was presented by the Commissioners of Inclosures in 1517 as having on November 4, 12 Henry 7 (1496), inclosed two messuages and two hundred acres of land at Little Rollright, and laid them to pasture. But the same commissioners presented Sir Robert Harecourt, also dead in 1517, as the imparker of thirty acres of arable land at Staunton Harecourt on March 16, 1495, and for the conversion of the land to pasture for the purpose of sport. Inclosures were unpopular. I. S. Leadam, 'Domesday of Inclosures' (1897), i. 328, 381.

Cok John Stokley John Hercy John Broughton and John Nele were seruauntes to the said sir Robert or with him reteignid contrary to the lawe in maner and fourme as in the said bill is supposid, or that Richard Sharpe, Stephin Swaynford or any othirs named in the said bill be or euer were reteigned with the said sir Robert contrary to the lawe. And without that that the said sir Robert was priuy knowing or assentyng to the said Riottes and Affrayes in the said bill surmisid. And without that that the said monkes or any of them were indictid at Islipe by the labour and procurement of the said sir Robert, or that he did Any thing ayenst the said monkes or their seruauntes at **any** Sessions othur than he by his office of Justice of peax ought to doo, or that the said sir Robert appoyntid the Sessions to be kepte At Henley in maner and fourme as by the said bill is supposid, And without that that the said sir Robert sent the said Rauf Charnels Edmunde Cook or any other in harnes ¹⁰ to take the same distres, or that he is guilty of any such misdemeanour riott or trispasse, as ayenst him is surmisid in the said bill, all which maters the said sir Robert is Redy to Auerre And proue as this court woll awarde, And praythe to be dismissid out of the same with his resonable costes and charges for his wrongfull vexacion susteyned in theis behalves.

- c. Thanswer of John Walshe otherwise callid John Sawyer, John Vaughan, Thomas Catter, Robert Smyth, Thomas Badam, Richard Sharp, John Cockys, John Stokley, Edmund Cooke and John Nele to the bill of complaynt putt ayenst them by thabbott of Enysham.

The said John Walshe saith that the grett parte of the matter surmisid ayenst him by the said bill is vntrue and by craft ymaged to putt the same John to truble and vexacion without cause resonable, but for declaracion of the trought in the said mater towching the first articule of the said bill for ¹ takyng away of the botte by the said John Walshe from the said Ile levyng the said Dam ² Roger

¹⁰ The word includes weapons. Cf. 'Lanc. Wills' (1539), i. 153: 'My soune . . . shall have one harnys that ys to saye a plate coote or jacke a sallett a payre of speutes (? splentes) and a halbert.' J. A. H. Murray, s.v. It is, however, to be noted that although persons said to be dependants of the defendant were armed, there is no allegation in the plaint that they were armed on this occasion. By an Act of 1388 (12 Rich. 2, c. 6) it was provided that servants of husbandry, labourers, and servants of victuallers

or of artificers should be liable to arrest if armed otherwise than with bows and arrows except when travelling on behalf of their masters. The fact that the persons mentioned in the plaint as assailing the monastery were armed raises a presumption that they were armed as being the retainers of Sir Robert Harecourt; or that, if of the labouring class, they were guilty of a breach of the statute.

¹ 'the' in B.

² Dan, B.

monk and ³ Cristofer his seruaunt within the same Ile, The said John Walshe saith, That the said monke and Cristofir oftyn tymes with theire said botte wold come to the said Ile lond and there drawe the lepyes and store pottes with Fysch of the said John Walshys ⁴ erly and late, and had takyn away with them Fysshe ⁵ to thualour of xl^s and a boue at diuers tymes as he supposid wherwith the said John Walshe found him sore grevid and oftyn tymes watchyd to espie the takers of the said Fysshe and cowde not finde them, and at the ⁶ tyme of takyng of the said botte the said monk and his seruaunt came with their said botte in to the said Ile ⁷ to Fysshe and to drawe the said lepyes and store pottes, and not ⁸ to seche for any such stonys of nettes as is supposid in the said bill, And the said John Walshe perceyvyng them there hauyng no Record with him by cause they shuld not after that denye it, caried away theire ⁹ botte thinkyng to them no harme but to haue their dede opynly knowyn for there is a fery botte and men keypyng the same neire the said Ile which within an houre aftur conueyed them to the said Abbey, AND AS TO THE SECUNDE article for teyeng of the said ¹⁰ botte in the said ¹⁰ Orchard of the said monastery, The said John Welshe saith that he came with his botte to the comyn londyng place of bottes in Enysham callid thorchard ende and from thens went to the said towne for to seche ¹¹ such stuff as he had to cary home, And after his departyng oone of the monks or seruauntes of the said Abbey for malice that thei bare vnto him for the takyng of the said Abbey botte ¹² secretly conueyed the said botte of the same John Walshes ¹³ in to thorchard of the said Abbey, and there drownid the same ¹⁴ botte, And the same John Walshe retournyng homwardes ¹⁵ missid his said botte, and hauyng informacion that the same ¹⁶ bott was in the said Orchard went in to the same to seche ayen his said ¹⁷ botte, And ¹⁸ found his said botte drownyd, and ij of the ¹⁹ monkes of the said monastery ther lyeng awayte for him purposely And they ²⁰ perceyuyng him to come for his said botte there they him assautid sore bette and woundid And there him imprisoned soo that he was not able by long space after to erne his lyvyng, ²¹ AND AS TO thentryng and comyng

³ the same, B.

⁴ the said welsche, B.

⁵ the Fysshe away with them, B.

⁶ said tyme of the, B.

⁷ for, B.

⁸ for, B.

⁹ said.

¹⁰ 'said' omitted, B.

¹¹ the cariage of, B.

¹² in the said yle, B.

¹³ Welsche, B.

¹⁴ said, B.

¹⁵ homward, B.

¹⁶ said, B.

¹⁷ the same, B.

¹⁸ ther, B.

¹⁹ said, B.

²⁰ 'they' omitted, B.

²¹ The correspondence with B here ceases.

in to the said Orchyard the xxij^{ti} day of marche in the maner and fourme as in the said bill is allegid the said John Walshe Thomas Catter John Vaughan and Robert Smyth sayen that grett parte of that mater is vntrue and by craft ymagined to put them to trouble and vexacion without cause, And for declaracion of the trought they say that they came with martyn whithill to entrete the priour of the said monastery to haue delyueraunce of the said John Walshys botte, And the said martyn went in to the said Abbey, and spake with the priour desiring him to haue the said botte delyuered, and the said priour bad him seche the said botte And the said John Walshe Thomas Catter John Vaughan and Robert Smyth went in to the said Orchyard to seche the said botte, and as they were Abought to haue losid and takyn the said bott the said Priour with xiiij monkes and v seculer persons seruauntes of the said Abbey came with bowys arrowys billes swordes and othur wepyns and there made assaute vpon the said John Walshe Thomas Catter John Vaughan and Robert Smyth and they perceyuyng the malicious entent of the said Priour and monkes and their seruauntes departid and fled for drede of theire lyvys, And the said monkes pursuid them soo fast that oone of the same monkes lepid ouer the wall of the said orchyard and fell in a grett mire and there stak fast till he was holpyn oute, AND AS TO THE FRAY supposid to be made in the said towne of Enysham The said Walshe Thomas Carter John Vaughan and Robert Smyth sayen that grete parte of that mater is vntrue and of pure malice contryued to put them to trouble and vexacion, And for further Declaracion of trought they say that the said John Broughton Edmund parkes William Buteler and the same John Vaughan come in to the Chirche of the said Abbey to here euynsong by cause it was sonday, and whan they were in the same chirch dan Roger Wallyngford and Thomas Ware monkes of the said monastery come and askyd them what they made there callyng them horson²² knavys, and comaundid them to avoyd out of the chirch or they wold make them and therupon the same John vaugham John browton Edmund parkes and William Butler departid out of the said chirch and wer goyng in to the said towne of Enysham and whan they come to the yates of the said Abbey diuers of the monkes and seruauntes of the said monastery whos names they knowe not made assaute vpon the said John vaugham John Broughton Edmund Parkes and William Butler with cross bowis²³ long bowys²⁴ billes²⁵ stavys²⁶ swordes and othur

²² Whoreson, bastard.

²³ By an Act of 1504 (De Balistis

non exercitandis, 19 Hen. 7, c. 4) it was provided that none should shoot with a

wepons and Shot at them and Smote the said John vaugham thorough the legge, and the said John Broughton on the brest with an Arrowe soo that they were in grett ieopardie of their lyvis, And the Constable of the said towne hering of this said affray come towards the yates of the said Abbey to thentent to see the kynges peax kepte, and diuers Inhabitauntes of the same towne come to ayde and assiste the said constable in kepyng of the kynges peax, and with them came the

crossbow unless for the defence of his house, other than a lord or person having two hundred marks (133*l.* 6*s.* 8*d.*) freehold per annum. The penalty was forfeiture of the crossbow 'to any person that wyll sease and take the same,' the offender to be prosecuted at sessions or assizes, and a fine of 40*s.* for every day on which the use of the crossbow should be proved. A penalty of 10*l.* was laid upon any privileged person who should allow his servant the use of his crossbow, and his privilege was withdrawn. The servant offending was to be discharged from service.

This Act was, as the dates will have shewn, passed after this case had come before the Star Chamber, and as the monks were ostensibly defending their house, they would have been exempt from its forfeitures. The Act was inconsistent in its policy, for it allowed the use of the crossbow to unprivileged persons in this emergency, though the stringency of its provisions excluded the possibility of rendering its use effective by practice. The fact that the monks had a store of warlike weapons illustrates the social condition of the time. Cf. p. 120.

²⁴ The above-mentioned Act recites that 'nowe of late the Kinges Subjectes . . . gretly delyte them selfe and take pleasour in usyng of Crosebowes, wherby grett distruction of the Kinges Deer aswell in Forestes Chases as in Parkes dayly is hadde and done and shotyng in Long Bowes lytyll or nothyng used & lykelye in shorte space to be loste & utterly decayed, to the great hurt & enfebelyng of this Realme & to the cumforth of oure outwarde enmyes yf remedie be nott therfore in dewe tyme purveyd.' One cause of the disuse of the longbow is omitted from this recital, that is, the rise of price, as is set forth in a petition of the Commons in 1472. This petition mentions that prices had gone up from forty shillings to a hundred shillings per hundred bowstaves, the retail price being, instead of eight, ten, or twelve pence, five shillings, six and eightpence, or ten shillings apiece (Rot. Parl. vi. 156). The cause of this dearness was the extension of Turkish power in the Levant, from which the best bowstaves were brought. Accordingly the Act (12 Ed. 4, c. 2) provided that vessels bringing cargoes from Venice

or from any other country whence bowstaves had been imported should bring four bowstaves for every ton of merchandise, under penalty of 6*s.* 8*d.* for each bowstave in default. In 1483 the retail price of bows was limited to 3*s.* 4*d.* (by 22 Ed. 4, c. 4). Nevertheless, in 1484 bowstaves had, according to a petition of the bowyers, gone up to 8*l.* a hundred, a rise attributed to 'the seducyous confederacy of the Lumbardees.' The Act 1 Ric. 3, c. 11, therefore provided that Venetian and other merchants from the Mediterranean should bring in ten bowstaves for every butt of Malmsey or Tyre wine imported, under penalty of 13*s.* 4*d.* per butt for every default. The Act limiting the price to 3*s.* 4*d.* was re-enacted in 1487 ('An Acte agaynst the excessyve price of long bowes'—3 Hen. 7, c. 13). But the consequence seems to have been to increase the scarcity, as the Commons complained in 1504, which led to the Act 'De custuma Arcuum ad tempus perdonanda' 19 Hen. 7, c. 2. The Act of Richard 3 continued for three quarters of a century to be used by governments from time to time as a weapon of fiscal oppression against Italian merchants. For the prevention of export by the Turks see S. P. Dom. Hen. 8 (1538), xiii. 1, 115. For action against the Venetians see Acts of the Privy Council, Ap. 22, 1556.

²⁵ See *Walterkyn v. Letice*, p. 165, n. 5.

²⁶ The staff as a weapon of war was, as may be seen by the well-known badge of the bear and ragged staff, what we should call a club (cf. p. 168, 'clubbe or staffe'). It was one of the weapons anciently peculiar to the unfree. By the *Leges Henrici Primi*, c. 78, § 2, as an evidence of the degradation of a free man to a servile condition 'billum vel strubulum vel deinceps ad hunc modum servitutis arma suscipiat,' where strubulum, ἀπαξ λεγόμενον, with a v.l. stumblum, is by some translated 'a club,' by others 'a goad' (Schmid, 'Die Gesetze der Angelsachsen'). Bracton says that a club was the slave's weapon. Cf. *Shakespeare*, 'Macbeth,' v. 7:

'I cannot strike at wretched kernes, whose arms

Are hired to bear their staves.'

Cf. also *Walterkyn v. Letice*, p. 167, n. 2.

said John Walsche Thomas Carter²⁷ John Stokeley and John Nele to ayde and assiste the said constable in keypyng the peax as is aforesaid, and the said monkes and theire seruauntes shotte arows a mong them all and hurt dyuers of them, and a mong all othur they strake a gentilwoman^r thorowe the Arme and they strake oone Stephen Warnysford thorough the neke with a quarrell²⁸ of a crosse bowe AND AS to the bettyng and hurtyng of the said John hudley seruaunt of the said monastery the said Thomas carter saith that he and the same John mette sodenly togeders at the said affray the same John beyng than dronkyn yave the saide Thomas Catter unfittyng werdes and the said Thomas Catter²⁹ strake the said John hudley flat lyng³⁰ with his daggar but he dide him no harme nor drew blode on him. AND as to the takyng of the said Sheppe, the said Edmund Cook saith that he come with the said Rauf Charnes in peasible maner to take a distras for xxvj^s viiiij^d which was that tyme due to his said maister for parte of his fee, and for asmoche as the said Rent had ben lawfully demaundid and the said abbott wold not paie it the said Rauf and Edmond toke the said shepp in peasible and lawfull maner, And as to any mater in the said bill allegid ayenst the said John Cockes Thomas Badam and³¹ Richard Sharpe³² They sayen that the said bill and the mater therin surmisid ayenst them is vntrue and of pure malices contriued to put them to vexacion and truble for they were not in the said orchyard nor at the said affray in the said town of Enyssham as in the said bill ayenst them is allegid but they were in othur places abowte theire owne businesses and so the said John Cokkes Thomas Badam and³¹ Richard Sharp³² sayen that they and euery of them be not gilty of the said mater surmisid ayenst them in the said bill. Without that that the said John Walshe conueyed his said botte in to thorchyard of the said monastery or that he yaued the said monkys any such unfittyng wordes or smotte at them in maner and fourme as in the said bill is alleggid, but all that the same John walshe did to the said monkes was in his owne defence for sauegard of his lief, And without that that the same John Walshe³¹ John Nele John Stokley³¹ Thomas Catter John Vaughan and Robert Smyth came in harnes or with any vnlawfull wepons to the said Fray in the said towne of Enyssham³¹ or in to the said orchyarde³¹ or

²⁷ Apparently three names which followed have been erased.

²⁸ A square-headed crossbow bolt. Old French quarrel, Modern carreau, from Latin quadrus with diminutive suffix. W. W. Skeat, 'Etymological Dict.' (1882), s.v.

²⁹ An erasure of about two inches in length follows.

³⁰ Generally as a single word, 'flatling,' or 'flatlings,' prostrate.

³¹ Interlined.

³² An erasure of about three inches in length follows.

othurwise demeanid them to the said monkes or seruauntes of the said monastery at the said affray or at any othur tyme than is afor rehersed in this theire Answere, And without that that the said John walshe John vaugham Robert Smyth Thomas badam John Nele John Cockes John Stokley and Robert Smyth³³ were euer seruauntes to the said sir Robert Harecourt or with him Reteigned contrary to the lawe in maner and fourme as in the said bill is allegid or that they or any of them be gilty of any mater ayenst them in the said bill surmisid otherwise than in this their said Answere is expressed. All which maters they and euery of them ben redy to proue as this court woll awarde and prayen to be dismissid out of the same with theire Resonable costes and charges for their wrongfull vexacion susteyned in theis behalves.

TREHERNE AND ANOTHER v. HARECOURT.¹

- 1503 A. In most humble wyse shewith vnto youre goode lordeshippes your dayly Oratours John Treherne and William Full seruauntes to the Bisshopp of landaff that where the seid Bysshopp suyde the kynges writtes of sub pena directed to oone William Tytte of Eynesham in the Countie of Oxonford yoman and other seruauntes of sir Robert Harecourt knyght retornable bifore the Kynges most honorable Councell in his Starre Chamber whiche writtes your seid oratours deliuered to the seid William Tytt and other at Eynesham aforeseid on ²Saturday next after² seint Dunstans day³ and then and ther the seid William Tytt dyd cast the seid writt in to the Strete and sore dyd strike your seid oratours for executyng of the same and on Sondag next after came moe seruauntes of the seid sir Robertes from Staunton Harecourte and other places to the seid Town of Eynesham with Swerdes bocolars and other wepons of warre and dyd lye in barnes hydels⁴ and other places to thentent to haue murdered and slayn your seid oratours for executyng the Kynges commaundement if they myght haue takyn them owt of the monastery ther so that your seid oratours durst nat ryde to london the

³³ Sic, repeated.

¹ S.C.P. Hen. 7, No. 35.

²⁻² Interlined for 'Wenesday last bifore.'

³ May 19.

⁴ Hiding places, not uncommon in medieval English. See J. A. H. Murray, 'Eng. Dict.' s.v.

right wey agayn but were fayn to ryde by woodes and other priue placys for⁵ out of ther wey for fere of murderying or sleyng by the seruauntes of the seid sir Robertes so that no lawe justice nor equite can be ministred to none of the Kynges subgettes in that Countre for the seid sir Robert and his myschiff adherentes and seruauntes to the grete discomford of all the kynges subgettes ther and to ther vtter vndoing if remedy be nat prouyded for them in this behalue by the kynges most gracious highnesse and the lordes of his most honorable Councell ayenst the seid sir Robert and his seid seruauntes, Please it therfore your seid good lordeshippes to commaund the seid Robert here beyng present in this honorable Court vppon a certeyn payne by your seid lordeshippes to be lymytted to bryng in to this seid Courte the seid William Tytt by a certeyn day by your seid lordeshippes to be lymytted that the same William may have answer to theis premisses and be punisshed accordyng to his deseruyng and your seid oratours shall dayly pray to god for your seid good lordeshippes.

Indorsed. Termino Pasche Anno xviiij^o⁶

milo Episcopus Landauensis contra Robertum Harecourt militem & Willelmum Tytt de Eynsham

Sir Robert harecourt sworn denyethe that the within wreten William Tytt is or euer was his seruaunt, but onlye he was in this deponentes cumpanye at blakheth feld.⁷

B. Thanswer of sir Robert Harecourt knyght to the bill of complaint of John Threherne and William Full.

The said sir Robert saith thitt¹ the said bill is fayned by the vntrue compassyng and ymaginacion of the said Bisshoppe to vex and truble the said sir Robert and to put him to slaunder and to lose his good name, And for non othur cause, for he saith that the said William Titte is not nor of many yeres past was seruaunt to the same sir Robert wherfor the said sir Robert can not him bryng in as it is desired by the said bill, and as towching the demeanour of the said

Sic, pronounced 'fur.'

⁶ May 3-29, 1503.

⁷ 17 June, 1497. See Eynesham, Abbot

of, *v.* Harecourt and others, A, p. 138, n. 6.

¹ Sic.

William Titte vpon the said delyuerey of the said sub pena the same sir Robert can therto make non Answer for he was neuer consentyng priue nor willyng therunto, And if the said Titte soo offendid as is specified in the said bill the said sir Robert in that nor in none othur hath not nor will socour nor comfort him therin, but to helpe to his punyschment according to his demerites. Also the said sir Robert saith that he nor non of his seruauntes hath not to his knowlege nor shall doo nor say ayenst the said complaynauntes, And if his seruauntes hath done any thing ayenst them vnlawfully The said Sir Robert saith he will not also therin them bere² nor helpe. And as towching all the said misdemeanour specified in the said bill laide to the charge of the said sir Robert he saith that he is not in them nor any part of them guilty, as by the same bill is surmisid. All which maters the said sir Robert is redy to auerre and proue as this court woll awarde, and prayth to be dimissid owt of the same, with his resonable costes and charges for his wrongfull vexacion susteyned in this behalf.

Indorsed. Responsum Roberti Harcourt militis.

WALTERKYN v. LETICE.¹

A. To the king our souerain lorde

1503

In most humble wise sheweth vnto your highnes your pore humble Oratour and daily Bedman Thomas Walterkyn heremyte of saint Michell besides highgate in the parisshe of harnesey² Where on sir Roberte letys Vicar of the parisshe of Saint pancras in the feld called Kentyshshetown³

² I.e. support. Cf. J. Strype, 'Eccle. Mem.' I. ii. App. lxi. 150: 'If ye . . . bear the Abbot in his evil dealing.' J. A. H. Murray, 'Eng. Dict.' s.v.

¹ S. C. P. Hen. 7, no. 51.

² A hermitage is known to have existed here as early as 1364, in which year a pavage grant dated November 11 was made by the King to William Phelippe, authorising him to take tolls from horses and carts carrying merchandise on 'the highway of Heghegate and Smethefield.' This Phelippe has been without any substantial ground identified (J. H. Lloyd's 'Hist. of Highgate' [1888], p. 113) with the 'nameless hermit' who, according to Norden ('Speculum Britanniae' [1723], p. 22) and Fuller ('Worthies of Middlesex' in 'Worthies of England' [ed. 1840], ii. 325), 'dwelling in the Hermitage where now the

School is, on his own cost caused gravel to be digged on the top of Highgate Hill, where is now a fair pool of water, and therewith made a causeway from Highgate to Islington.' The pond is now an asphalted open place in South Grove, formerly Pond Square (Lloyd, p. 114). The hermitage occupied the site of Cholmeley's School, having been suppressed in 1539 (pp. 116, 135). The chapel was rebuilt and granted to the school by Bishop Sandys in 1575, the Bishops of London being patrons of the hermitage (E. Walford, 'Old and New London,' v. 419). A form of profession of a hermit may be seen set out in Sir R. C. Hoare's 'Hist. of Wilts' (1825), ii. 162.

³ 'St. Pancras alias Kentish Town Vicarage. This church is by the highway side that leads from Holborn to

William Chadwyk of the same parisshe yoman John Hosteler yoman and Richard Taylour with other diuerz and many Riottours and euyll disposed personz to the nombre of xl persones and more vppon Tewesdaie last passed the xxijth daie of this present moneth of Maii⁴ in riottuos wise and in maner of warre that is to say with billes and stafes and other wepyns defensible cam into the hous and heremytage of your said Oratour in the parisshe of harnesey aforsaid, your said Oratour than being in his garden and his seruaunte with hym in peasible maner there laboring, And than and there riotously with diuerz manasing and threting wordes brake and hewd down aswell the pale of thorchard of your said Oratour as the pale of his garden and vnlawfully entered into the same And without cause or occasion yeuen by your said Oratour the said William Chadwik struke your said Oratour vppon tharme with a bill⁵ and wold haue muredred hym Except he had escaped from the said William and his cumpany into the Stepill of his said heremytage, wherein he contynued by all the tyme of there being there. And ferthermore your said Oratour saith that the said Ryotours entred into the dwelling hous of your said Oratour and summe of them toke away ij Aulter clothes, a Syrplis and a boke called a grayll⁶ with other stuff besides other hurtes and harmes to hym done in his said Orchard and garden. And as yete your said Oratour dare not presume to go home to his said heremytage, Onlesse your gracioux socour to hym be shewid in that behalf. Please it therfore your said gracioux highnes the premisses tenderly considered graunte your gracioux lettres of priue Seale to be directed

Kentish Town, and so up to Highgate. The advowson belonged to the Dean and Chapter of St. Paul's.' R. Newcourt, 'Repertorium' (1708), i. 704. Kentish Town is said to have been so named from Kantelowes or Kentelowes, a manor in the Hundred of Ossulston, in which Kentish Town is situate. E. Walford, 'Old and New London,' v. 317.

⁴ The answer tells us that this was in Rogation Week, which enables us to fix the date. Rogation Sunday, the fifth after Easter, being May 21, Easter Day would fall on April 16, which, in the reign of Henry 7, only happened in the year 1503. J. J. Bond, 'Handy-Book of Dates'

(ed. 1866), p. 235.

⁵ Bills varied 'in form from a simple concave blade with a long wooden handle to a kind of concave ax with a spike at the back, and its shape terminating in a spear head, a halberd. J. A. H. Murray, 'Eng. Dict.' s.v. Representations of bills are given in F. Grose, 'English Military Antiquities' (1801), ii. plate 28, and in S. R. Meyrick, 'Ancient Armour,' ii. 220.

⁶ A book containing the antiphons called 'Graduals,' 'beyng wont to be song at the steps going vp' i.e. to the altar, between the Epistle and Gospel. Foxe, 'A. & M.' 1402, i. J. A. H. Murray, sub 'Grail' and 'Gradual.'

to the said sir Thomas⁷ William Chadwike John Hosteler and Richard Tailour or a seriaunt of Armes⁸ or sum other commaundement them and euery of them straitly commaunding by the same to appere before your said highnes and the lordes of your most honourable counsell at a certen daie and vnder a certen payne to them and to euery of them to be lymytted by the same. And your said oratour shall daily pray to god for the preseruacion of your most noble and Royall estate.

Indorsed. Scilicet coram Domino Rege & Consilio suo die Martis proxime futuri.⁹

- B. Thanswere of sir Robert Letice Clerk Vikar of Seint Pancrase William Chadwike John Hosteler and Richard Tayllour to the bill of compleint of Thomas Walterkyn of Seynt michell by Highgate.

The seide vikar and the oder seyen that the seide bill is not certen ne sufficient to be answerid vnto but of grete malice vntruly feyned and imagened onely to sclaunder vexe and trobull the seide vicar and the other And the mater theryn conteygned determinabull at the comen lawe and not in thys Court Wherto they prayen to be remytted And thauauntage therof to them savid for declaracion of trouth and answer seyen that the seide vikar and the other before named with the hole parisshe of Kentishtowne the seide xxij day of May in the bill of the seide Hermyte specified Whiche was in the Rogacion weke Accordyng to the lawdabull Custome of Englund Went in procession abowte theire seide parisshe in theire prayers as they and there predecessours haue vsed to doe owte of tyme of mynde¹ in godes peax and the kinges till thei came to the Heremitage of the seide Heremyte at Highgate Whiche Heremyte and his predecessours Stopped the procession wey of your seide vykar and of his parisshe by meanes of makyng of pales and dikes And wuld not suffer them to passe With their

⁷ Sic, although supra 'Sir Roberte,' which the statement of defence shows to be correct.

⁸ See p. 247, n. 9. Also Introd., p. xxvi.

⁹ If we are to assume that the petition came before the Court forthwith, it must have been drawn after May 23, and filed and indorsed before May 30, the day appointed for hearing. There being no other date attached to the document than that of May 23, the indorsement suggests

that this was so, but so expeditious a procedure is improbable.

¹ 'The procession on three days before Ascension Day was instituted by Mamertus, bishop of Vienne in Dauphiné,' A.D. 452. . . . In England the Council of Cloveshoo, 747, orders the observance of these Rogation Days, secundum morem priorum nostrorum (can. 16). W. Smith and S. Cheetham, 'Dict. of Christian Antiquities' (1880), ii. 1809.

procession as thei were wont to doe Albe it the seid Hermyte was curtesely entretid by the seide Chadwike and other to suffer them peasibly to passe with their procession And then the seide Hermyte hauyng a grete Clubbe² by hym in his garden & ij other with hym with Clubbes Also Richard yerdeley and Thomas marshall sodenly toke the seide Clubbes and Strake at the seide Chadwike ouer the pale with the violence of Whiche Stroke the seide Hermyte brake diuers of his pales And afterward diuers of the seide parisshe pullid downe serten pales for the seide parisshe to passe with their procession and so departed peasibly that wey With their procession Withoute any occasion geuyng or quarell makyng to the seide Hermyte or to any othere And as to the entryng into the dwellyng Howse of the seide Heremyte and takyng away of serten bokes thens they seyen that they be not therof gilty but thei seyen that the seide Heremyte is a man of il conuersacion and rule For thei seyen that the seide Heremyte hath leide to plegge one of the bokes that he supposeth shulde be Stolen that is to sey A grayle and other Stuffe to one John Phelippe for a serten Summe of money whiche the seid Phelippe wull auowe and testifie Whiche he Wolde now colorably and vntruly ley to the charge of diuers of the seide parisshe. Withoute that that the seide vikar and the other before named came riottusly into the Howse and Heremytage of the seide Heremyte in the parisshe of Harnesey in maner and forme as by the seid bill is supposed, And Withoute that that they be gilty of brekyng or hewyng any pale otherwise but as before doth appere, And Withoute that that the seide William Chadwyke is gilty of Strekyng the seide Heremyte with a bill or otherwise in maner and forme as by the seide bill is also supposed, And Withoute that that the seide vikar and the other aforeseide be gilty of ony Riotte or were of ony suche

² Presumably as an ecclesiastical weapon like the mace of Odo, bishop of Bayeux, at the battle of Hastings, which was not designed to shed blood (cf. also p. 158, n. 26). In 1236 the Cardinal Legate Ottoboni issued an injunction to the clergy against the wearing of arms and armour. 'Cum igitur clericis, qui in praeclaram Christi haereditatem assumpti sunt, usus armorum Divini et humani juris auctoritate sit omnino prohibitus, ita ut etiam pro iustitia eis ad offensionem aut vindictam nullatenus uti permittatur' &c. (E. Gibson, 'Codex,' &c. i. 161.) The hermit was an ecclesiastic, and served the chapel. The hermitage was in the gift of the bishop of London. Newcourt ('Repert.' i. 654) gives the grant by Robert de Braybroke, bishop of London, dated Feb. 20,

1386, to William Lichfield, 'pauperi Heremitaie senectute et debilitate oppresso' of 'officium custodiae capellae nostrae de Highgate juxta parcum nostrum eidem capellae annexae per Heremitas alios pauperes solitae custodiri' &c. The amenities of the place are more fully set out in a grant by Bishop Stokesley, on April 20, 1531, of the chapel or hermitage, 'ac messuagium, gardinum et ortum, cum suis pertinentiis, cum omnibus et singulis decimis, oblationibus, proficuis et commoditatibus ac emolumentis quibuscumque Willielmo Forte Heremitaie durante vita sua naturali' (ib.). The phrase 'chapel or hermitage' recalls the expression in document A, p. 165, 'the stepill of his said heremytage.'

mysdemenour in maner and forme as by the bill of the seide Heremyte is supposed. ALL WHYCHE maters the seide vykar and the other bene redy to proue and make good as thys Court wull Awarde and prayen to be dismyssed With theyr reasonabull costes and charges for theyre Wrongfull vexacion and trobull susteyned in this behalf.

- c. This is the Replycacion of Thomas Walterkyn heremyte of seynt michell besidys hygate to the Aunswer of sir Robert vicare of seynt pancrase William Chadwyk & othyr.

The seid heremyte seith that his bille of complaynt is true in euery thyng and suffeyent to be aunswerd and he seith that the seid vicare and othyr be gilty of the seid riote & mysbehauyng in maner and forme as in the seid bille is supposed and moreouer he seith that the seid hermytage is in the parishe of harnesey out of the parishe of seynt pancras¹ and he seith that dyuers personys aswell of the seid parishe as of othir placys of theyr deuocion haue vsed to entre in to the Chapell of the seid hermytage to here deuyne seruyce & to honour god ther at tymes conuenient. Without that the seid Vicary or any of the seid parishe of seynt pancras haue or oght to haue any procession Wey ther or any other colour or title of entre in to the seid hermytage or any parte therof other then as he hath be fore rehercyd, And without that the seid hermyte or any other for hym hadde any clubbe or staffe at the tyme of the seid riote & forcyble entre commytted by the seid vicary and othir And without that the seid hermyte is a man of mys rule or that he pleyged any stufte belongyng to the seid hermytage as the seid vicary and othir in their aunswere haue supposid. All which maters he is redy to prove as this court wille a ward and prayth as in his bille &c.

HALLE v. ESSEX.¹

A. To the Kyng oure soueraigne Lorde

1503 In the moste humble and lamentable wyse shewith and compley-
nyth vnto youre excellent highnesse youre true Subgiette and Liegeman

¹ Newcourt says on this point, 'Highgate, in this parish of Hornsey aforesaid, and partly in the parish of St. Pancras. . . . On the top of this hill, in the said parish of Hornsey, stands a Chappel for the ease of that part of the country (called the chapel of St. Michael, because dedicated to

St. Michael the Archangel) where was antiently an Hermitage' ('Repert.' i. 654). If Newcourt be right, either the vicar &c. of St. Pancras were guilty of trespass, or the boundary line must have passed close to the chapel.

¹ S.C.P. Hen. 7, no. 53.

William Halle of your Cite of London Taylour, son and heire vnto William halle of the parysshe of Kensyngton yn youre Counte of middlesex decessid, That where as a good blessid creature callid Elizabeth Roote late of the saide parysshe of Kensyngton doughtir and heire vnto John Buttyrwyk ² of the same parysshe, of her good mynde and vertuous disposicion than beyng wedow, yn her Testament and last wille made and provided vpon feoffament, after her dettis paidc, that suche possession of Landis and Tenementes that she or any othir for her, to her vse yn Fee, hadde wythyn the saide parysshe of Kensyngton and elliswhere shulde remayne vnto oone Robert Scarburgh her next kynnysman, at suche tyme as he shulde comme to his lafulle Age of xxj yeris, To have and to holde vnto hym and to the heires of his body lafully begotyn, and for lacke of suche yssue, alle the same landis and Tenementes beyng yn kensyngton shulde remayne perpetually vnto the forsaide william halle fadir of your saide Oratoure, whiche than was oone of her Feoffees yn alle the saide landis and tenementes, To haue and to holde vnto hym to his heires and assignes for euermore, Vndir condicion that the saide william the Fadir shulde yerely fynde a covenable Preste to the honoure of god, to sey masse daily, sykenesse oonly excepted, yn the chirche of our lady of Kensyngton abouesaide and to pray for her Soule and for the Soules of othir her Frendis, till the somme of c. li. myght there be thurghly expendid and paidc, and that the saide William halle the Fadir shulde fynde sufficient Surete to his Cofeoffees of and yn the saide Landis so to doo, And beside that, from the day of the discesse of her forsaide kynnysman Robert Scarburgh, the saide william halle the Fadir his heires executours and assignes shulde kepe a perpetuall Obytte yn the saide chirche of kensyngton for her Soule, the Soules of her fadir and modir and for alle her Frendis Soules, and for kepyng of the same shulde expende and pay yerely x^s as yn her Testament more pleyuely yt apperyth Whiche Robert Scarburgh discesed without yssue, by reason wherof all the saide landis and Tenementes yn Kensyngton remayned fully vnto the Fadir of your saide Oratoure yn Fee Symple, vnto all the whiche condicions the saide william halle the

¹On June 8, 1454, Thomas Beaumont (d. 1457) in 1442 Sheriff of the City of London, executed his will, whereby he left lands, tenements, and rents in the parish of All Hallows de Bredestrete, charged with the maintenance of a chantry in that church for the souls of John Boterwyk, Alice wife of the same, William Roote, Elizabeth wife of the same, and others. Calendar of Wills proved and enrolled in the Court of

Husting, London, edited by R. R. Sharpe (1890), ii. 533. The will of a William Rote, esquire, of Kensyngton, Middlesex, was proved in the Prerogative Court of Canterbury in 1421. 'Index of Wills proved in the Prerogative Court of Canterbury, 1383-1558' (edited by J. Challenor C. Smith for the British Record Society, 1895) ii. 456.

Fadir yn his lyfe was evir agreable and them perfourmed, And your saide Oratoure wolde haue doon the same yf he myght haue enjoyed the saide landis and Tenementes But soo yt ys moste redoubted soueraigne lorde, that oon Piers Ardern than beyng chief Baron of youre Eschequer³ and william Essexe than beyng Remembrauncer yn

³ Peter Ardern or Arderne, perhaps a son of John Arderne appointed a baron of the Exchequer on Feb. 5, 1444 (E. Foss, 'Lives of the Judges,' iv. 282), probably a member of an ancient family of that name settled in Essex soon after the Conquest. It is possible that this was originally a branch of the very ancient and numerous family of Arden, in Warwickshire, among whom the name of Peter occasionally appears. (See Dugdale's 'Warwickshire'; also G. R. French, 'Shakespeareana Genealogica' [1869], pp. 416-514; notes on the Shakespeare and Arden families.) But Sir Peter Ardern's coat of arms, upon his tomb at Latton, differs from the bearings of the Warwickshire branches of that family. (See P. Morant, 'History of Essex' [1768], ii. 489 A.) He first appears in 1439, at Knaresborough, as deputy of William de la Pole, Earl of Suffolk, Chief Seneschal of the Duchy of Lancaster in the north parts ('Plompton Correspondence' [Camd. Soc., 1839], p. liii.). Doubtless owing to the influence of Suffolk, then at the height of his power, Ardern was made Chief Baron of the Exchequer on May 2, 1448, and on June 7 following, also a Justice of Common Pleas (Foss, *ib.* p. 408). He continued Chief Baron after the accession of Edward 4 (March 4, 1461), and on April 8 following received a grant 'for the maintenance of his estate in his office' of 110 marks (73*l.* 6*s.* 8*d.*) yearly at the Exchequer, and a robe with fur at Christmas, and one with lining at Whitsuntide (Patent Rolls, Ed. 4. 1461-7, p. 128). His formal re-appointment as Chief Baron is dated June 20 following (*ib.* p. 94). On February 10, 1462, he received a grant of a tun of Gascon wine yearly, at Easter, from the King's prises in the Port of London (*ib.* p. 137). He was evidently in favour at Court, and may be conjectured, from his connexion with de la Pole, to have been Yorkist in sympathy, for he was frequently appointed on special commissions to try cases of treason (Pat. Rolls, 1461-7, pp. 201, 347, 490). He had ceased to be Chief Baron on September 10, 1462 (*ib.* p. 198), when a grant was made to Illyngworth, his successor. The inscription on his tomb at Latton states that he was 'in scaccario Baro primus ac post Justiciarius in Banco' (Morant, *l.c.*). This is confirmed by the Patent Rolls, for on June 25, 1467, in a

grant of the manor of Latton to his widow Katherine, she is recited to have been 'late the wife of Peter Ardern, Knight, one of the justices of the bench,' i.e. of the Common Pleas (P.R. 1467-77, p. 23). No record of his appointment by Edward 4 survives, but he was constantly engaged in judicial work on circuit till the year of his death (see Pat. Rolls 1461-77, *passim*). A gap, however, appears from March 28, 1462, when he was commissioned to try treasons in Hampshire, to June 8, 1463, when he was put on the commission of the peace for Middlesex. This suggests that the cause of his ceasing to hold office as chief baron was ill health, for it may be inferred from the fact that the grant to him of a tun of wine was exempted from the Act of Resumption of 1464 (Rot. Parl. v. 528) that he had not lost the King's favour. In a case in Trinity Term 1463 he is called 'late chief baron of the Exchequer, and now justice of the Common Bench et secundar' ('Year Book,' 3 Ed. 4, fo. 6), which Foss inclines to interpret 'second baron of the Exchequer' (Foss, *ib.* 409). This conjecture receives some confirmation from the fact that early in the term following his death (Oct. 30, 1467) Nicholas Statham was appointed second baron (Dugdale, 'Orig. Judiciales' [1680], p. 68). Arden's re-appointment to the Common Pleas may therefore be dated between September 1462 and June 1463. Foss states, without giving his authority, that 'fines were acknowledged before him so late as Easter, 7 Edward 4, 1468' (*ib.*). The recital of the Patent Roll already mentioned (June 25, 1467) shows this to be a mistake for 1467. Easter Term in that year began on April 15 and ended May 11. His death, therefore, probably took place in May 1467, and his will was proved in the same year (J. C. C. Smith, 'Index to Wills proved in the Prerogative Court of Canterbury,' i. 17). The grant to his widow of June 25, 1467, was a licence to feoffees to uses to convey 'the manor of Merkhalle, alias Latton Merk, co. Essex,' to the heirs male of Sir Peter Ardern and Katherine, with successive remainders to Anne, wife of John Bohun, esquire, and Elizabeth, wife of John Skrene, esquire, daughters of the said Peter.' He was buried in a chantry chapel founded by him and Katherine his

the same Eschequer⁴ by theire grete myght and power, by coloure and vertue of their Offices with writtes and many othir ynordynate meynys of vexacion caused the forsaide Fadir of your Oratoure to be putte yn prison, and hym excluded and putte from the possession of all the saide Landis and Tenementes yn Kensyngton, contrary to the wille and Testament of the forsaide Elizabeth Roote, true enheritrice to the same, And at suche tyme as the Fadir of your saide Oratoure was yn prison, the forsaide Piers Ardern and william Essex sent vnto his Chambre, and there by force contrary to your lawes brake vpp his Chestes and Cofirs, and toke owte therof his golde and silvir and alle such evidences as he hadde concernyng the saide landis & tenementes, And whan the saide William halle hadde noticion and

wife in the church of Latton, Essex, where an incised brass lies over his grave (Morant, ii. 489. C. Boutell, 'Monumental Brasses' [1847], i. 91. H. Haines, 'Manual of Monumental Brasses' [1861], p. 59). The probate of his will shews that he also left land in Yorkshire.

⁴ William Essex, the Remembrancer of the Exchequer, first appears in a letter from Thomas Playters to John Paston, dated April 18, 1461, he being apparently then in office at the Exchequer (J. Gairdner, 'Paston Letters' [1874], ii. 7). His formal appointment by Edward 4 to the office of Remembrancer of the Exchequer for life was dated July 18 following (Patent Rolls, Ed. 4, 1461-67, p. 24). According to Leland ('Itin.,' iv. f. 19) he was also Under Treasurer of the Exchequer. On September 11, 1461, and again in 1465 and 1467 (P.R. Ed. 4, p. 567), he was nominated on the commission of the peace for Middlesex. His grant of the Remembrancership was exempted from the Act of Resumption of 1464 (Rot. Parl. v. 529). After the flight of Edward 4 he apparently turned Lancastrian, for he was nominated upon a special commission for Middlesex to try felonies, murders, and other offences (Pat. Rolls, Ed. 4 and Henry 6, 1467-77, p. 248). But he again conformed upon Edward 4's restoration in the following year. Thus he was placed upon the commission of the peace for Middlesex in January 1471 by Henry 6, and in September 1472 and subsequently down to November 1475 by Edward 4 (ib. p. 622). In 1474 (October 16) he was nominated a commissioner 'de wallis et fossatis' 'by the coast of the marsh of the Thames between the Tower of London and the town of Stratford atte Bowe' (ib. p. 463). On June 12, 1475, he obtained a confirmation of his office of Remembrancer, his wages &c. which were overdue from Michaelmas 1474 being made

payable from the customs and subsidies in the port of Southampton (ib. p. 541). An inquisition taken in 1481 recites that Richard Sturghion and William Hall were seised of the manor of West Towne in Kensington, Brompton, Chelsea, Tyburn, and Westburne, which by charter dated July 5, 32 Henry 6 (1454), they gave to William Essex and Edith his wife in fee tail; that William Essex died on May 26 last past (? 1480), leaving Thomas Essex his son and heir aged twenty years' (Esch. 20 Ed. 4, No. 80; T. Faulkner, 'Hist. of Kensington' [1820], pp. 90, 91). 'This (i.e. William) Estsax purchacid Landes aboute London and is byried in an Isle of the Church of the late Priory of S. Barptolomes in Smithefeld in London' (J. Leland, 'Itin.' l.s.c.). It would seem that at some date between 1475 and 1481 William Essex received knighthood, for a grant dated May 4, 27 Hen. 8 (1535), appoints Richard Pollard Remembrancer of the Exchequer with fees &c. as enjoyed by Humph. Bowland, Thos. Walsh, or Sir William Essex (S. P. Dom. Hen. 8, viii. 802, 14). Now Thos. Walshe was King's Remembrancer of the Exchequer till his appointment as fourth baron on April 23, 1534 (ib. vii. 588, 10), when Bowland was nominated in his place (ib. 589, 15). Walshe had succeeded Robert Blagge on January 27, 15 Hen. 8 (1524) (ib. 588, 15), who had held the office since December 6, 1502 (Pat. 18 Hen. 7). Clearly, then, in the appointment of Richard Pollard, the elder William Essex is referred to. On the other hand, in the recital of the grant to Walshe in 1524 he is spoken of as 'William Essex' without the title of knight. The inquisition of 1481 also omits the title, which may perhaps have been a clerical error arising from a confusion in the scribe's mind with Sir W. Essex the grandson.

knoulache therof, he felle forthewyth distraught and clerely owte of his mynde, and than they delyuered hym owte of prison and withyn shorte tyme aftir he departed the Contrey, and noon of alle his Kynne nor Frendis knew where he became, to the grete hevynesse ynjuries and damages of your saide pore Oratoure, and ayenst the Soule helthe of the forsaide Elizabeth Roote, yn asmoche as her wille was not nor yitte ys perfourmed, And howe be yt that the same your Oratoure hathe many tymes and oftyn, bicause he was not of power to sue the Course of youre comyn lawe ayenst the saide william Essexe than enjoying the saide landes and tenementes yn Kensyngton, requyred hym, and also sythyn his discesse Thomas Essexe his Son and william Essexe son and heire⁵ of the saide Thomas Essexe, whiche

⁵ This William Essexe, the grandson, married between January and June, 1488 (Inq. post mortem, Hen. 7, i. 345, 365), a considerable heiress, Elizabeth only daughter of Thomas Rogers, a large landowner in Berks (ib. 460), Herts (ib. 405), Hants (ib. 494), Sussex (ib. 365), and Wilts (ib. 521). On his betrothal, his bride being then aged eleven or twelve years (ib. 345, 365, 460), his father-in-law settled the manors of Rumbaldyswyke and Holyngardyn, Sussex, on his daughter (February 1, 1487). 'By her he (Essexe) had 300 Markes of Landes by the Yere in Barkeshir and theraboute' (J. Leland, 'Itin.,' iv. f. 19). Thomas Rogers died on January 19, 1488 (ib. 345, 365, &c.). His principal seat was at Lambourn, Berks, called 'Roggers Manor' (ib. 460), and here William Essex and his wife lived. He was appointed to the commission of the peace for Berks soon after the accession of Henry 8 (S. P. Dom. Henry 8, i. 241). On November 14, 1509, he was pricked sheriff of Oxon and Berks (ib. 664), and was from this time continuously enrolled upon the commission of the peace for Berks, though not for Oxon. He took his release from his shrievalty on May 24, 1511, and is therein described as of Chepynglambarne (Chipping Lambourn), Berks (ib. 1683). He accompanied Henry 8 in his expedition against France in the summer of 1513, and was one of the knights created by him in the church of Tournay on September 25 of that year (ib. 4468, where the Harl. MS. erroneously has December). In France he was attached to the staff of Charles Brandon, Viscount Lisle (afterwards duke of Suffolk), the commander-in-chief (ib. 4653). He was present at the marriage of the King's sister, the Princess Mary, to Louis 12 of France at Abbeville on October 9, 1514 (ib. 5483). He became a member of the royal household in 1516 (ib. ii. 872) as a

Knight for the Body, and was present at a State banquet at Greenwich to the Imperial ambassador on July 7, 1517 (ib. 3446). In 1518 he was a second time sheriff of Oxon and Berks (J. M. Davenport, 'Lords-Lieutenant and High Sheriffs of Oxfordshire,' Oxford, 1868, p. 2). He was one of the six knights representing Berkshire at the Field of the Cloth of Gold in June 1520 ('Chron. of Calais,' Camden Soc. [1846], p. 21; cf. S. P. Dom. Hen. 8, ii. 703, 704), and on July 10 was present at the meeting of Henry and the Emperor Charles 5 at Gravelines (ib. 906). In 1523 he was a commissioner of subsidy for Berks (ib. pp. 1364 and 3504). He was an officer in the Duke of Suffolk's army in France in August of the same year (ib. 3288), having acted as commissioner of musters for Berks (ib. 3687). In the year following he was one of the collectors for that county for the loan in aid of the war with France (ib. iii. 214) and for the subsidy (ib. p. 235). He was again pricked sheriff of Oxon and Berks, November 10, 1524 (ib. 819). He appears for the first time on the commission of the peace for Wilts in 1525, in which county, at Pyrton, he held the manor of Pyvenhill in right of his wife (Inq. p. m. Hen. 7, i. 521). From this time he was regularly on that commission (S. P. Dom. Hen. 8, iv. 2002; v. 1694, ii. &c.). On February 13, 1525, in company with Sir Thomas More and the Solicitor-General, Richard Lyster, he was nominated a commissioner to make searches for suspected persons in Kensington, Hammer-smith, Knightsbridge, and Chelsea. He was appointed a member of the Privy Council 'for matter of law' on February 5, 1526 (ib. App. 67; ib. 1082). Upon the occasion of the great scarcity of 1527 he was one of a numerous commission to search barns and stacks in Berkshire for concealed wheat and for putting into execution the

william the Son of Thomas nowe holdith and kepith the possession of the saide landes & tenementes to suffre youre saide Oratoure to haue and enjoye hoolly the saide landis & tenementes accordyng to the wille of the forsaide Elizabeth, which they haue at alle tymes refused

Statute of Winchester against vagabonds and unlawful games (ib. 3587). Perhaps as a reward for this service he obtained (April 28, 1529) a Crown lease for twenty-one years of a forfeited house and lands of Sir Francis Lovell, at a nominal rent, at Buckland-in-Overton Burton (Berks), (ib. xvii. 1154, 3). He was returned to Parliament as knight of the shire for Berkshire on November 3, 1529 (ib. v. 6043, 2, i.). In June 1530 he was a commissioner of gaol delivery at Oxford (ib. 6490, 20). He was one of four commissioners appointed on July 14, 1530, after Wolsey's fall, to inquire into the Cardinal's possessions in Berkshire (ib. 6516). In this year his son Thomas Essexe first appears on the commission of the peace for Berks (ib. 6751, 24). Sir William may have been taken to belong to the Boleyn party, for he accompanied Henry 8 to Calais on October 11, 1532, upon the occasion of his meeting with Francis 1 to persuade the French king to intercede with the Pope for the divorce ('Chron. of Calais,' p. 42), was one of the knights chosen to attend Anne Boleyn at her coronation banquet in Westminster Hall on May 31, 1533 (S. P. Dom. Hen. 8, vi. 562), and in the following year was appointed 'steward of Newberye,' part of her dower, with a salary of 20s. (vii. 1522, ii.). He appears about the same time (1534) to have engaged in two successful lawsuits against the Abbot of Abingdon, for which special juries were impanelled, to judge from the fees of 5*l.* 11*s.* 10*d.* debited to the abbot (ib. 1676). His son Thomas in 1536, then aged 28, married Margaret, widow of William Rogers, eldest son of Sir John Rogers (ib. x. 392 [28]). Sir William Essexe evidently continued to support in Parliament the King and the party of the Reformation, for in October 1536 he was appointed, with other noblemen and gentlemen, 'to attend upon the king's own person,' and he raised a hundred men for the suppression of the Northern rebellion (ib. xi. 580, 2). But in the following December an unfortunate incident cast suspicion upon his loyalty. Essexe and Sir George Throckmorton met one night at supper 'at the Queen's Head betwixt the Temple gates' (ib. 1406), Essexe's favourite tavern (ib. xii. ii. 952). Throckmorton lent Essexe a copy of the demands put forward by Aske, the leader of the rebellion. Essexe, who had chambers in the Temple (see 'Cal. I. T. Rec.' i. 79, 118),

gave the document to his 'chamber boy,' Geoffrey Gunter, to copy. Gunter took two copies; one he gave to Essexe, the other he showed to some priests in Reading, who apparently took and distributed more copies (S. P. Dom. Hen. 8, xi. 1405-6). News having reached the Council of this distribution of treasonable literature, Throckmorton and Essexe were arrested and clapped in the Tower. 'Their lives are in danger. Some say there is much to be laid to their charge,' wrote John Husee to Lord Lisle on January 14, 1537 (ib. xii. i. 86). But before January 16 they had been released, and there seem to have been no real grounds for suspicion of Essexe's disaffection (same to same, January 25, 1537, ib. 237). He was at once restored to favour and put on the commission of the peace for Wilts (January 16, 1537, ib. 311, 14). He was present at Hampton Court at the christening of Prince Edward (Edward 6) on October 15 following (xii. ii. 911). Throckmorton, however, who, as member for Warwickshire during the Parliament of 1529-36 ('Members of Parlt.' i. 370), had been an active opponent of Henry's measures, was re-arrested in the autumn, charged with defamatory conversations against the King and Anne Boleyn, some of which took place at the Queen's Head in Essexe's company (S. P. Dom. Hen. 8, xii. ii. 952-3). Essexe, on the other hand, was appointed on a special commission to punish disseminators of false reports of the King's death in Berkshire (December 24, 1537, ib. 1256, cf. ib. xiii. i. 7). He was a commissioner of gaol delivery at Wallingford for Oxon and Berks on February 4, 1538 (ib. 384, 16), and again regularly on the commissions of the peace for Berks and Wilts (ib. 646, 36, 1115, 69; xiv. i. 1354, 27). That the confidence of Cromwell and the King in him was now re-established is evident from the fact that on February 4, 1539, he was sent by special commission on the Oxford circuit to try cases of treason (ib. xiv. i. 403, 17). Later in the spring of the same year, when national defence was organised against anticipated foreign invasion, Essexe was nominated a commissioner of musters for Wilts (ib. p. 229). His certificate of the forces available in the county remains (ib. p. 302). He was among the knights deputed to attend on the King at the reception of Anne of Cleves in December (ib. ii. 572). He was in receipt of a yearly

and denyed hym, and yitte doo, ayenst alle right and good conscience, So that your saide Oratour ys nevir lykly to recovir his right withoute the helpe and favoure of your good grace. WHEREFOR the premyssis by you tendrely considered yt may please youre highnesse of your most habundant grace and rightwisnesse to ordeyne and commaunde that the saide william Essexe son and heire of the saide Thomas Essexe may be callid bfore youre highnesse and the lordis of your most honorable Counsell to answer vnto the premyssis and to shew a lauffulle cause why he ought not of very right to make vnto your saide Oratoure due and vndelayed restitution of the same landis and tenementes soo by his Grandefadir and Fadir and now by hym kepte from youre saide Oratours Fadir and hym that ys to sey by the space of xl yeris and more,⁶ Whiche landis & tenementes ben of the yerely value of xx li., The arrerages wherof your saide pore Oratoure whiche ys now fallen blynde ys content to gyf vnto youre excellent highnesse to comfort hym yn his right And he shalle daily pray to god for the preseruacion of your moste noble persone and Royall astate.

Responsabile apud Westmonasterium infra iiij^{or} dies.⁷

Indorsed. Ad quindenam Sancte

Termino Trinitatis Anno regni regis xvij⁸ infra iiij dies.

Willelmus Hall secus⁹ scissor londoniensis contra Willelmum Essexe.

'fee' of ten marks from the Court as a member of the household (pp. 323, 327). He was again pricked for sheriff of Oxon and Berks in November 1540 (ib. xvi. 305, 80), and returned to the Parliament of 1542-44 ('Members of Parlt.' i. 372). He died on August 13, 1548, seised of the manor of West Towne, in Kensington, a circumstance which discloses the issue of this suit (Faulkner, p. 91). By his will dated January 27, 1548, he devised this manor to his son Thomas Essexe, then forty years of age, a member of the Inner Temple ('Cal. I. T. Rec.' i. 61, 156 &c.). He also left lands in Berks, Derbyshire, Essex, Leicester, Oxford, Salop, Somerset, Surrey, Warwick, and Wilts (J. C. C. Smith, 'Index of Wills,' &c. i. 191). Probably, however, some of these were lands held in trust. He had a daughter Elizabeth married to Sir Edward Darrell of Littlecote (d. August 26, 1549). An amusing account

of the legal contests of herself and her son William Darrell with Thomas Essexe and other members of her family, 'as greedy, false, and cringing knaves as any perhaps in the county' (Wilts), is to be seen in Hubert Hall's 'Society in the Elizabethan Age' (3rd ed. 1888), ch. i., in the frontispiece to which work are blazoned the Essex arms. Thomas Essexe, who was knighted between 1548 and 1553, lies buried with his wife Margaret under an alabaster tomb in Lambourn Church. J. Murray, 'Handbook for Berkshire' (1902), p. 107.

⁶ This statement, taken in connexion with the indorsement (June to July 1503) and the date at which Sir Peter Arden ceased to be chief baron (September 1462), fixes 1462 as the date of the forcible entry.

⁷ In another hand.

⁸ 1503.

⁹ For cæcus, 'nowe fallen blynde.'

B. This is the answer of William Essexe to the bill of Complaint of William hall.

The said William saith that the said bill is vncerteyn & vnsufficient to be answerd vnto and the matiere theryn conteyned determinable at the Comen lawe wherunto he praith to be remyttid and there is no matiere of Riott surmysed in the said bill wherby he shuld be compellid to make answer in this Court,¹ And Ferthermore he saith that the Euidence of the said londes & tenementes be withholden frome hym by oon Rauff Swyllington² which wedded the mothere of the said william Essexe And he Cannot opteyne the possession of them

¹ For this plea, which also occurs in Bath, Prior of, v. St. Augustine's, Canterbury, Abbot of, p. 21, see Intro., p. lxxxi. The Interrogatories seem to show that the plea was held bad.

² Rauf or Ralph Swyllington was probably a member of an ancient landed family in Leicestershire (see index to Nichols's 'Hist. of Leicestershire') settled at Kettleby and elsewhere (ib. II. i. 9, 11). He was a Member of the Inner Temple. On Dec. 20, 1509, he was admitted to the freedom of the town of Leicester and to membership of the gild merchant there (ib. I. ii. 388). He is styled 'recorder' in a commission for levying the subsidy at Leicester, dated Sept. 21, 1512. He was probably appointed to the recordership in 1509, in succession to Robert Jakys (ib. p. 452). This conjecture is strengthened by the fact that he appears on the commission of the peace for Leicestershire dated November 12 of that year (S. P. Dom. Hen. 8, i. 656) and he continued on the commission of the peace for the county till 1514 (ib. 4783). During the same period he was also frequently a commissioner for gaol delivery for Leicester castle (ib. 554, 3209, 4742). On May 12, 1514, he was appointed Reader in the Inner Temple, having served the previous year as 'attendant on the Reader.' (F. A. Inderwick, 'Calendar of I. T. Records,' i. 27, 28, 30). In 1515 he is recited in a commission of gaol delivery for Coventry, as Recorder of that city, though he retained his recordership of Leicester (Nichols, I. ii. 390). He appears to have become a benchor of the Inner Temple in 1518 ('Calendar' &c. i. 42). He took an active part in the government of the Inn (see 'Calendar,' Index). In 1521 he was again 'attendant on the Reader' (ib. p. 61). On July 15, 1521, he was nominated a commissioner to inquire into concealed lands in the counties of Warwick and Leicester (S. P. Dom. Hen.

8, iii. 1451. 15). About the same time he was employed to inquire into a 'pretended insurrection' in Coventry (ib. iv. 2751). Doubtless by way of reward he received a grant on July 11, 1522, of the stewardship of the Manor of Chelesmore, Warwickshire, and of all the Crown lands in Coventry &c. (ib. iii. 2415. 11). That this was a valuable preferment may be inferred from the fact that after his death it was bestowed on Thomas Grey, Marquis of Dorset, Aug. 23, 1525 (ib. iv. 1860. 10, cf. 1676. 20). He was re-elected Reader of the Inner Temple in February 1523 ('Calendar,' &c. i. 71), and was treasurer of the Inn in the same year (ib. 74). He was appointed Attorney-General on April 1, 1524 (S. P. Dom. Hen. 8, iv. 297. 1). In the same year he received a legacy of 6*l.* 13*s.* 4*d.* from Sir Thomas Lovell, K.G., 'for making the wharf at the Temple' (ib. iv. 155). Conjointly with the Duke of Norfolk and John Porte, the following year made a judge of the King's Bench, Swyllington was appointed a commissioner for the redress of grievances in the North on July 16 of the same year. The Commissioners were to hold their first sitting at York on July 30 (ib. 497). They transacted their business expeditiously, for on August 9 Wolsey wrote to the Duke from Hampton Court requesting that Swyllington might return, as it was needless to detain him any longer (ib. 571). It is possible that he received some grant for his services. At any rate, he appears for the first time on the commission of the peace for Middlesex on November 26 following (ib. 895. 26). That he was a man of wealth and liberality is evident from the fact that at a town's meeting at Coventry on February 1, 1524, he contributed the large sum of 40*l.* 'to a common wealth for making of cloth' (ib. App. 1). He died between June 26, 1525, when he was named upon a commission of gaol delivery (ib. iv. 1466) and

without sute of accion by the lawe so that he without the said Euidence can not make directe answeere to the said bill but he saith that he knowith well that oon William Essexe his graundefathere purchesid the said londes & paid for the same vij or viij c.³ markes which is aboue xx yeris purches⁴ by reason wherof he contynued peasibull possession all his lif without any title or clayme made by the said william hal or any of his blode to the same. And after the deth of the said william Essexe his graundefathere Thomas Essexe his Father⁵ entred & toke peasible the yssues & profites of the same without entre interrvpcion ore accion or any othere thyng done or attemptid contrary to the same which peasibull contynuanee of possession by his Fathere & graundefathere was by the space of xl yeris & more, And after the said Thomas Essexe his Fathere died after whose deth the said william Essexe the Son entred & was & is possessid of the same which the same william peasible without clayme ore pretence enjoyed till nowe of late by the inticement of suche persons that bere no good will vnto the said william Essexe knowing the same william to be but yonge & newe comyn to his londes⁶ & that his Euidence & writynges

August 23 following, when his stewardship of Chelesmore or Chelmymore was conferred on the Marquis of Dorset (ib. 1860. 10). His will, dated 1523, is published in H. Nicolas, 'Testamenta Vetusta,' ii. 612. According to Dugdale ('Warwickshire,' 47A) his wife in 5 Hen. 8 (1513-14) was Alice (qu. Pauncefoot), but it would seem from the phrasing of the will, which is not very intelligible, that a former wife was a widow, Katharine Hulecot, with daughters to whom he bequeaths 10*l.* apiece as a marriage portion, and that his wife Elizabeth who, as this case proves, was the widow of Thomas Essexe, survived him. She was buried by the side of Thomas Essexe, her first husband, as the arms shew, in the Church of St. Michael, Coventry, with an inscription as follows: 'Orate pro anima Elizabeth Swillyngton vidue nuper uxoris Radulph Swillyngton, Attornati Generalis Domini Regis Henrici Octavi, Recordatoris Civitatis Coventrensis quondam uxoris Thome Essex armigeri, que quidem Elizabeth obiit in anno domini millesimo cccce —,' the concluding letters being lost (B. Poole, 'History of Coventry' [1870], p. 142). Swillyngton had purchased lands in Driffeld, Yorks, which he devised to his nephew, George Swillyngton, who represented Leicester in the first Parliament of Edward 6. ('Members of Parliament' 1878, i. 375). His will was proved February 14, 1525 (J. C. C. Smith, 'Index,' &c. ii. 513). On April 24, 1540, a pardon was granted to one Thomas Hourde of London for all

felonies and trespasses, particularly for those of which he was found guilty by the court of King's Bench, viz. that he, with George Hourde of London and John Dale of London, yeoman, stole certain articles belonging to John Hulecott or Halkett, at the parish of St. Clement Danes without the New Temple, London, and likewise certain articles belonging to Sir William Essex (S. P. Dom. Hen. 8, 1540, 733. 21). The conjunction of the names of Hulecott and Essex suggests some proceeding like that alleged against Sir Peter Arden and William Essex, the elder, in the bill of complaint.

³ 466*l.* 13*s.* 4*d.*, or 533*l.* 6*s.* 8*d.*

⁴ See Bath, Prior of, v. St. Augustin's, Canterbury, Abbot of, C, p. 22, n. 9.

⁵ Cf. the Inquisition of 1481 (see A, n. 4, supra). Thomas Essexe, as 'Sun and Heir (of William Essexe), married the Daughter and Heir of Babthorpe of Warwickshir and by her had a Hunderith Markes by yere of Landes' (J. Leland, 'Itin.,' iv. f. 19). William Babthorpe was one of Ralph Swillyngton's executors (H. Nicolas, 'Test. Vet.' p. 613). Doubtless this marriage accounts for the burial of Thomas Essexe in St. Michael's, Coventry.

⁶ Assuming that he had come of age in the previous year, 1502, he would be about seven years old at the date of his marriage with Elizabeth Rogers in 1488 (see p. 170, n. 5, supra). On early marriages see W. Denton, 'England in the Fifteenth Century,' p. 261, n.

concernyng the said londes wer owt of his handes causid the said william hall to put in the said bill ayenst the said william where for trouthe the said william hall nor none of his auncestres were at any tyme owners therof nor sesid to theire own vses And if any of them at any time were eneffid therin it was to the vse of othere whose interesse the said William Essex haith. Without that the said Elizabeth Rote eneffid any person to thentent to declare any will vppon the said Feffement or that eny of hire feffees wer sesid therof the tyme of hire deth And without that the said Elizabeth made any suche will as is surmysed in the said bill or that eny suche will kuld be shewid longe & many yeris after hire discese And though she hadde made suche a will it is not materiall to the said William Essex hauyng sufficient conveiaunce from them that hadde seson & possession of the said londes, And without that the said Peers Arden & William Essex his graundfathere euer jnprisoned or trowbuld the Fathere of the said William hall, And without that the said William Essex his graundfathere breke vppe the Chest of the Fathere of the said William hall or toke any Euidence or othir thyng from hym but suche Euidence as he hadde were delyuerd hym at the tyme of his said purchase Wherefore the same William Essex most humbly praith to be dismissid owt of this Court & not to be compellid eny longere to awaite vpon any suche fayned or surmysid mater And he shall allwey pray for the preseruacion of your grace.

- c. The Interogatoryes for the parte of william hall for the title & Right of Certen londes beyng yn varyaunce betwyxt the same william & on william Essex gentylman.

Item whether the seyd William hall now playntiff ys son & heyer to William hall late of Kensyngton.

Item whether the seyd william hall of Kensyngton toke any issuez or profittes of the londes & tenementtes specified yn the seyd byll or any parte of theym and how long he toke the profittes of the same.

Item who entered ymmediatly yn to the seyd londes after the deth of the sayd Robert Scarburroghe.

Item whether Ellizabeth Rote made any suche wyll as ys alleged yn the sayd byll of Compleynt.

Item whether the seyd william hall of Kensyngton made any astate of the sayd londes or graunted the seyd londes of his free wyll to the seyd peers arden or to william esexe graunffather to the seyd william Essex now defendauntt.

Item whate summys of money the seyð peers arden or william Essexe payed for the sayd londes to the seyð william hall of Kensyngton or to any other person to thuse of the seyð william hall.

Item whether the seyð William hall of Kensyngton was euer vexed trobelled sued or by any other vnlawfull meanys imprisoned by the seyð peers arden or by the seyð william Essexe the graunfather for fere wherof the seyð william hall was fayne to departe frome the seyð londes and for sorow ¹ off the same ¹ the seyð william hall was distraught & nott of hole mynd & soo departed out of the Countree.

Item whether Peers arden att suche tyme as he hadde the seyð william hall of Kensyngton in prison Brokē vpp the house & Chamber of the seyð william and soo Conveyed awaye all suche euydences as the seyð william hall hadd Concernyng the seyð londes yn Kensyngton.

Item of whome the seyð Peers arden bought the seyð londes & by whate auctoryte he sold the same londes to the seyð william Essexe the graunffather or of whome the same William Essexe bought the same londes.²

Item whether Thomas Essexe Father of the seyð William now defendauntt was euer agreable to Compound with the seyð william hall now playntyff for his title yn the seyð londes and whether the same william hall that now ys euer made any Clayme for the same londes to the seyð William Essexe that now ys.

SHROWESBURY, ABBOT OF, v. BAILIFFS OF.¹

A. This is thaunswere off the Bailieffes off Shreuysbury to the Bill off thabbot off Shreuysbury.

1504 The seid bailieffes seyn that the Town off Shreuysbury is and tyme out off mynd hath ben an auncient Borough wherunto aswell our soueraign lord the king that now is as his noble progenitours²

¹ Interlined in substitution for 'whereof' underlined for erasure.

² This interrogatory suggests that the land had been bought by Arden either to resell or to give to William Essexe the elder, and that the conveyance direct by Sturcion and Hall to Essexe (see A, p. 171, n. 4, supra) was by his instructions. The forcible entry and breaking open of the chests of William Hall the elder imputed to Sir Peter Arden looks as though Hall,

after executing the conveyance, had refused to deliver it or the title-deeds.

¹ S.C.P. Hen. 8, Bundle 26, No. 363. Wrongly sorted. The reference at the end of the abbot's replication (B) to the bringing up of Richard Dicher, whose examination, dated February 6, anno xix^{mo} (1504), follows, shows that this answer and the replication belong to that time, the bill of complaint being lost.

² The earliest royal grant to Shrewsbury

haue graunted diuers liberties & Fraunches Wherffore they paie vnto the kinges highnes a yerely Ferme³ as apperett off Record in the kinges eschekker. Which borough is and be all the said tyme hath ben on off the keyes for the good ordre off the marches in those parties⁴ and now gretly in decay⁵ & soe dayly groweth & moche the more by reason off the Importable chargies & costes that the said Abbot⁶ putteth them vnto; whiche lyethe here within this Cite⁷ at his

appears to have been by Henry 1, but the charter has been lost. H. Owen and J. B. Blakeway, 'Hist. of Shrewsbury' (1825), i. 76. The charter of Henry 7 extending the jurisdiction of the town's view of frankpledge is dated December 14, 1495. Ib. 268.

³ This was fixed by a charter of John of February 24, 1205, at 45 marks (30*l.*) (see ib. i. 86, 301). On December 12, 1485, Henry 7, grateful to the town for its zeal in his cause, remitted ten marks (6*l.* 13*s.* 4*d.*) of this sum, in consideration of the ruin, poverty and decay of the town, during a term of fifty years, and released the town for ever from contribution to aids and subsidies (Campbell, 'Materials,' i. 213). The town was in arrears with its fee farm rent. Ib. 445.

⁴ I.e. of Wales.

⁵ See n. 3, supra. A charter of December 14, 1495, recites 'the very great poverty, decay and ruin of the town' (O. and B. i. 268). A letter written by Peter Newton, an inhabitant of Shrewsbury, between 1502 and 1508, to the bailiffs of the town, is printed in Owen and Blakeway, i. 277. The writer had apparently been deputed to make representations to the king on behalf of the town. He writes: 'And in the meane season nowe and hereafter at my being with his grace, I shall shewe that without his help, succor and benigne favor be largely extended to the said Town, wiche hathe been and is honorable and the grettest strengthe and defence that his subgetts of that shire have agens the wildnes of Wales and Marches ther is 'hastely likly to be right porely inhabited, in suche grete ruyn and decay it daillly falleth and contynueth.' Shrewsbury is mentioned as among the decayed towns in 27 Henry 8, c. 1, and 35 Hen. 8, c. 4. On the decay of English towns in the fifteenth and sixteenth centuries, see the references collected in C. Gross, 'The Gild Merchant' (Oxford, 1890), i. 51, n. 5.

⁶ Richard Lye, in 1487 the junior monk of the house, son of Lodovic Lye, elected 1495, died 1512 (Dugd. 'Monast.' iii. 514). He was possibly a native of Lichfield, where he was admitted a member of the Gild of

St. Mary in 1508 (T. Harwood, 'History of Lichfield' [1806], p. 411). According to Dugdale, he received the temporalities of the Abbey of Shrewsbury on January 20, 1495 (Orig. 14 Hen. 7. See MS. Lansd. 963, p. 54). But from the registers of the bishops of Lichfield it appears that his election was not confirmed by the bishop till March 16, 1498 (Owen and Blakeway, ii. 129). 'It is certain,' say Owen and Blakeway, 'that in his time the affairs of this house were in a state of extreme derangement, and its liberties actually seised into the king's hands.' On June 17, 21 Hen. 7 (1505), being summoned before the Exchequer for refusing to pay 6*l.* 6*s.* 8*d.*, part of his contribution to the subsidy granted by the clergy of the province of Canterbury in 12 Hen. 7, he successfully pleaded a remission by the king, dated Nov. 20, 19 Hen. 7 (1503) (MS. R. O., Exch. K. R. Mem. Roll, E. T. 21 Hen. 7, m. xi.). He died in London on March 4, 1512, while in attendance on Parliament (S. P. Dom. Hen. 8, i. 3093). His epitaph in the church of St. Bartholomew-the-Less, Smithfield, on 'a fair plated stone in the South aisle,' attested that 'Sua industria, sumptibus magnis, et suis laboribus, deo suadente, recuperavit libertates sue ecclesie Salopie' (J. Stow, 'Survey,' ed. J. Strype [1754], i. 713). It has of late been 'restored' out of existence in order to make way for some modern tiles. The delay in the confirmation by the bishop of his election may perhaps be accounted for in part by the fact that bishop William Smyth was translated from Lichfield to Lincoln in January 1496, and his successor at Lichfield, John Arundel, was not consecrated until November 6 following (J. Le Neve, 'Fasti' [1854], i. 554, 555). The statement of Willis that he 'was admitted abbot an. 1499' may perhaps be a confusion of his admittance with the date at which the Crown restored its liberties to the abbey.

⁷ I.e. London, as is evident from the abbot's replication (B, p. 183, infra). In 1275 abbot Luke de Wenlock had bought a house in the parish of St. Ethelburga, Bishopsgate, London, which he had settled, with other houses, on the conventual

pleasure to hym lytell charge & cost, & therby eschewyth kepyng off hospitalite within the said monastery contrarie to the laudable ordre & rule that his predecessours there beffore tyme hath kept, soe that by his vncharitable & vnleefull vexacions the Inhabitauntes of the seid borough be the more vnhabable to content the kinges seid grace his seid Feeferme and at leyngthe enles his seid grace help & assist theym for the deffence off the same they shalnot be hable to bere the charities off the seid Town. And for the declaracion off trouthe off there demeanyng concernyng the Articles comprised in the seid bill as to the furst article off the same they sey that the seid bailieffes & commynyalitie haue had a vew off Frankplege⁸ tyme out off mynd amonges other off all the Inhabitauntes dwellyng uppon the stanbruge⁹ in Shreuysbury forsaid whiche the seid Abbot pretendeth to be within his libertie & fraunches that in dede is vntrew, And for not suyng to the seid lete¹⁰ off¹¹ certeyn off the same Inhabitauntes aswell other gentilmens tenauntes as the tenauntes off the seid Abbot were amerced and for the same amercementes beffore the deliuere off the seid priue seale¹² distresses were takyn appraised and accompted for accordingly as there off old tymes hath be vsed in such behalff, And morover they seyen that they desired the seid William Coll¹³ named in the seid bill to com & appere with the seid Now bailieffes¹⁴ according to the tenour off the seid priue seale. And for asmoche as at his last comyng and appering before your highnes & your most honourable counsail here at Westmynster by virtue off your priue seale and

kitchen at Shrewsbury, with the reservation 'Salvo tamen nobis et successoribus nostris abbatibus dicti monasterii hospitio competenti quandocunque ibidem venerimus.' Ow. and Bl. ii. 114.

⁸ There is no mention of frankpledge in the earliest two charters preserved, those of Richard I and John (Ow. and Bl. i. 82-89). 'Occasionally we find a clear grant of "view of frankpledge," occasionally a grant of immunity from frankpledge, which may or may not have amounted to the same thing . . . far more commonly a lord prescribed for the "view" and prescribed for it successfully.' Pollock and Maitland, 'Hist. Eng. Law,' i. 567. 'The frankpledge system prevails in the boroughs.' Ib. 642.

⁹ The Stone bridge, now generally called the English bridge, over the Severn at the east end of the town, connecting the town with the abbey.

¹⁰ Towards the end of the thirteenth century the word leet (leta), which seems to have spread outwards from the East-Anglian counties, was becoming a common

name for such a court, but to the last visus franciplegii remained the most formal and correct of titles.' P. and M. i. 568.

¹¹ Sic.

¹² This would be after January 15, 1500, at which date bishop Arundel's offer of mediation had been accepted by the bailiffs. See Ow. and Bl. i. 270-271.

¹³ Bailiff in 1493, 1498, and again, with Richard Dicher, in 1502 (ib. 530), to which last date this passage relates. The family of Colle or Cole had long been considerable in Shrewsbury (ib. 467-471). The bailiffs were, by the charter of Richard 2, to have the qualification of 10*l.* a year of land or rent (ib. 172). They received a fee of 100*s.* a year, and a robe worth 20*s.* Ib. 207.

¹⁴ Ow. and Bl. give under the year 1502 an extract from the town archives as follows: 'In diversis expensis factis per ij ballivos tres satellites et alios secum equitantes ad civitatem London. ad respondendum privato sigillo domini Regis.' Ib. 275.

at the sute off the seid Abbot, the same William Coll was arrested enprisoned & compelled to paie to the seid Abbot the somme of xxxviiij li. sterlinges in contempt off your highnes and as yet not punyshed to his ondoynge by reason wheroff he is soe enpoueryshed that he is not hable to com & appere at this tyme. Alsoe they seyen that a waraunt off the peas was directede From the seid bailieffes beyng Justices off the peas¹⁵ within the seid town & Fraunches to attache¹⁶ the seid Thomas Boughton specified in the seid bill, Wheruppon on Edward Bent on off the seriauntes at mase¹⁷ within the seid town & fraunches attached the seid Thomas Boughton by virtue off the seid waraunt within the libertie off the seid Town. Alsoe they seyen that where the seid Abbot hathe off his extorcion takyn by his seruantes toll off pouer people commyng to the seid town with wod & coole yet the same taking off toll off wod and coole hath be vsed in the strete called foryate strete¹⁸ belonging to the seid Abbot and not on any part off Stanbruge within the libertie off the seid town. And by cause the seid Abbottes Fermour¹⁹ wold haue takyn toll wod²⁰ off a certeyn person caryeng & brynging wod ouer the seid bruge²¹ toward the seid Town to be sold, the seid Fowke Spurstow & Edward Bent in peasible wise desired the seid Fermour to spare takyng off the seid wod on the seid bruge beyng within the libertie off the seid town. And alsoe the seid bailieffes seyen that on Roger barbur on off the seriauntes at the mase within the seid town off his own mynd without commaundement or knowlage off the seid bailieffes attached John Stub named in the seid bill for suspeccion off Felony but whether he were attached within the place wheroff the Fraunches is in variaunce the said bailieffes know not. With out that the seid bailieffes or any off there seriauntes or officers haue takyn any distresses within the liberties & Fraunches off the seid Abbot, And Without that the seid Fowke spurstow Edward Bent dauid Kyngesley & William duthek²² attached in Riotous maner

¹⁵ By a charter of 30 Hen. 6, 'Hist. MSS. Commission,' 15th Rep., Append., pt. x. p. 31.

¹⁶ By a charter of 1341 the burgesses were granted attachments. Ow. and Bl. i. 162.

¹⁷ 'There is also a more inferior kind of Sergeants of the Mace, whereof there is a troop in the city of London and other corporate towns, that attend the mayor or other chief officer, both for menial attendance and chiefly for matters of justice. These are called *Servientes ad Clavam*.' J. Cowel, 'Interp.' s.v. Sergeant. The town of Shrewsbury had no mayor until the grant of the charter of 1638 (Ow. and Bl. i. 406). The bailiffs appointed two ser-

jeants and were answerable for them. It was the duty of the sergeants (*inter alia*) to receive certain fees and collect fines. They were removed every year (*ibid.* 173). A third serjeant was appointed by the aldermen (*ib.* 207, 215). All three are mentioned here.

¹⁸ East of the Severn, still called 'The Abbey Foregate.'

¹⁹ I.e. farmer of the tolls.

²⁰ Apparently a toll in kind.

²¹ Presumably this person had avoided Foregate Street by taking the Coleham road leading to the end of the bridge from the south at a point west of Foregate Street.

²² William Duthek of Shrewsbury,

or contrary to Any decre or commaundement to them geven the seid Thomas boughton. And Without that the bailieffes or Any there officers to there knowlage²³ or by there commaundement²³ attached the said John Stub for Any trespasses by hym commytted within the seid town or elles where or that they made watche to attache the seid John Stub in the place wheroff the fraunches is now in variaunce. And without that the seid bailieffes or there officers have disobeyed or wrought contrary to the commaundement and articles conteyned in the seid priue seale, or that they haue Forfeted the peyn or somme conteyned in any priue seale to them or there predecessours at Any tyme directed. And without that they haue disobeyed or Any thinge don or attempted to the preiudice hurt damage destruccion or vndoing off Any liberties off the seid monastery. All whiche maters &c.

B. ¹ This ys the Replicacion of Thabbot of Shrowesbury² to the aunsware of the Bailys of the towne of Shrowesbury.

1504 The same abbott sayth that his said byll of complaynt is true yn euery poynt as he hath allegged and sayth that the aunsware of the same nowe baillyes is Fayned & of no trouth to thentent that they may proulonge the tyme with there vntrue surmyse and so to contynue yn there vnlauffull & riottuous demeanour agaynest the said libertiez and yn avoydyng & distruccion of the same and where it is allegged by the aunsware of the same Baillys to the disclander³ of the said abbott that the sayd Towne is by hym & by his meanes gretly ympoueresshed & decayd the said abbott sayth that the ympouer-ysshement & decay of the said Towne is by there mysrule & yn defaute of good order and fer lak of due mynystacion of justice and not executyng the kynges writtes & his lettres of priuey seall to the said Baillys directed there and not by the said abbott nor by his meanes and the said abbott sayth for the encrese of the said town he yerely bestoweth yn the same town for bredde drynks & vytail aboue

'Sherman,' acted as a commissioner for the town in levying the aid granted by Parliament in 1504 (19 Hen. 7, c. 32), though his name is not among those appointed by the statute (Statutes of the Realm [1816], ii. 679). See MS. R. O., Exch. K. R. Mem. Roll, E. T. 21 Hen. 7, m. vii. Inter Communia.

²³⁻²³ Interlined.

¹ S.C.P. Hen. 8, Bundle 18, No. 160. Wrongly sorted.

² A mitred Benedictine abbey, founded by Roger de Belmeis or de Montgomery about 1087 (Dugd. 'Monast.' iii. 513). See also A, p. 177, n. 6, supra. A computus of 1534 valued the revenues at 615*l.* 4*s.* 3*d.* The computus of 33 Hen. 8 (1541) valued them at 656*l.* 4*s.* 3*d.* Ib. 527, 528.

³ Cf. Esclandre. J. A. H. Murray, 'Eng. Dict.,' suggests that the prefix des- or dis- was perhaps due to confusion of des- and es-.

the somme of cecc markes⁴ and sayth that he kepeth hospitalitie yn his said monastery yn as good & pleyntyous maner as hath byn vsed theire yn tymes past and his absens from thense is to hym no pleasure nor comfort and is moche by the meane of the said baillyes & Commynaltie for they do to hym & his monastery so moch wrong that they dryve hym to personall suite but his nowe⁵ beyng yn the Citie is by summons of the kynges writt to appere here and attende upon the hiegh Court of parliament and ouer that the said abbott sayth that he & all his predecessours of his said monastery yn the Right of the same monastery haue vsed to haue thir viewe of Fraunkeplegge of all the inhabitauntes & resiauntes dwellyng upon the said Stanbrigge.⁶ Without that the said Baillys & Commynaltie and their predecessours haue hadde the viewe of Fraunkeplegge of the inhabitauntes there yn maner & fourme as they haue allegged yn their said aunsware and Without that the said nowe Baillys haue appraiseid the distresses by theym taken specified yn the said byll and accompted for the same by any lafull autorite Or haue delyuered the said distresses by theym taken accordyng to the hiegh commaundement of the last privey seall and the said abbott sayth that the matter allegged in the said aunsware is no sufficient matter to excuse the said nowe Baillys for their non bryngyng of the said William Coll specified yn the said byll before this honourable consaill nowe present and Without that the said Edward Bent made the said attachment specified yn the said byll of the said Thomas Boughton specified in the same byll within the liberties of the said town and the said abbott sayth that he & all his predecessours & their Fermours from tyme of no mynde haue vsed to take of euery lowde of wode Toll wode⁷ and of every lowde of Coll toll Coll commyng upon the said Stanbrigge which is within the liberties of the said abbott and

⁴ 266*l.* 13*s.* 4*d.*

⁵ This fixes the year. No Parliament had met since 1497. The Parliament of 19 Henry 7, which is omitted from the official list of members of Parliament ('Parl. Papers,' 1878, *LXX.* pt. i.), met on January 25, 1504, and was the last Parliament of Henry 7's reign. See 'Statutes of the Realm,' ii. 648; Rot. Parl. v. 520, C. H. Parry, 'Parliaments and Councils of England' (1839), p. 197.

⁶ This is to some extent confirmed by a writ of 6 Hen. 3 (1222), addressed to the Sheriff of Shropshire forbidding him to impose any impediment in the way of the abbot 'quin libere et sine impedimento possit reaedificare domos suas coram ponte

Salop et super pontem quae prostratae fuerunt et combustae occasione guerraemotae inter dominum Johannem patrem nostrum et barones suos.' Ow. and Bl. i. 92, n.c., 'The abbots were undoubtedly lords of the manor,' but this seems to refer to the Foregate Manor (*ibid.* ii. 139). There is an entry 'Monkeyate alias Foryate et Castelforgate ac Villa Salop—108*l.* 5*s.* 4½*d.*' in the computus of the last abbot, Thomas Butler, dated Michaelmas, 26 Hen. 8 (1534), in Dugd. 'Monast.' iii. 525.

⁷ The charter of Henry 3 to the abbey expressly grants 'theoloneum lignorum quae intrant ad vendendum in Salopemberia per Estgatam et Sudgatam' (Dugd. *ibid.* p. 522); but it says nothing of coal.

Without that the said abbott by his seruauntes haue taken any such Toll by extorcon yn maner & fourme as is allegged yn the said aunsware With that the said abbott wyll averre that the said Stanbrige is parcell of the said Foryatt strete, which holl foryatt strete is within the liberties of the same abbot⁸ and Without that the said Baillys haue fulfilled any of the commaundementes yn the said last privey seall contayned but onely the bryngyng vpp of Richard Dycher. All which matters the said abbott is redy to averre as this honourable Court shall award.

c.

vith February, anno xix^{mo}.¹

1504 Richard Dicher² sworn saith to the first Interrogatorie that he knowith not by what warant the town claymeth the vew of frankpledge in & vppon the place comprised in that first Interrogatorie but if it be in the Town Chartour or other wretinges that be betwix the same Town and thabbotes that haue ben of the monasterie there, and whether ther be any warrant in those wretinges & chartour this deponent knowith not as he saith.³

Testis.

To the ij^d he saith he knowith not that the Town of Salop hath had the vew of Frankpledge in the place in that Interrogatorie specified⁴ in peace without Interrupcion of thabbot, nether the abbot in possession of his clayme without Interrupcion of the Town, for this xvj yere last past, and before that it was litle hede takyn to such

* It appears that at some time after the rebuilding of the houses on the bridge by the abbot, an agreement was made with the burgesses by which the abbot undertook to forbear to build on the ground forming the approach to the bridge, which, in case of war, it was proposed to fortify (O. and B. i. 92, n.c.). This approach to the bridge was the natural continuation and termination of Foregate Street, as is evident from the plan of the town. See the plan of Shrewsbury in J. Murray, 'Handbook to Shropshire' (1897), p. 52. Dugdale ('Monast.' iii. 517) prints from the abbot's register a document intituled 'Fundationis et Dotationis Historia,' which is carried down to the reign of Stephen. Speaking of the founders, the Earl and Countess of Montgomery, it says: 'Primo, scilicet, dederunt congregatis illuc fratribus vicum quendam juxta eandem ecclesiam positum. . . . Hic autem vicus dividitur a civitate Salopesbiriæ solummodo alveo fluminis intercurrentis, cui nomen est Sabrina.

Vicus autem ipse Biforietta vocatur, quod nos lingua Gallica, ante portam dicimus.' The void tract of ground was called Maryval or Merivale. Ow. and Bl. i. 242.

¹ 1504. The interrogatories are lost. As the original complaint, now lost, was filed in the same term (see F, p. 191, infra) it is clear that the business of the Court was at this period conducted with expedition.

² Bailiff in 1502. Will proved 1524. J. C. C. Smith, 'Index,' i. 171.

³ Next follows the answer to the second Interrogatory, but it is struck through and the ij^d interrogatory changed to ij^d. The answer to the second was as follows: 'To the ij^d Interrogatorie he saith he hath no knowledge of the contentes therof, nether he knew any vew of frankpledge takyn in that ground that is in debate by the bailiffes or keping of any court baron there nor otherwise.'

⁴ In the absence of the interrogatories, it is somewhat uncertain what is meant by 'place.'

thinges⁵ as is in that Interrogatorie specified of both the town and thabbot, for noo strif was for it asfarr as this deponent can remembre.

To the iiiijth he saith he can not answere for he knowith noon other autorite for the contentes⁶ of this Interrogatorie but onles⁶ this of the town chartour.

To the vth he saith it chargethe not him.

To the vith he saith he herd neuer of that atachment vntill he come to London now.

To the vijth he saith he is not remembered that thabbot or his fermour haue takyn any such toll in any place but within iiij or v yere last past by which space thabbot & his fermours haue vsed to take Tolwode and Colle without Estgate first by Richard pynners hous now there dwelling which is within iij houses of the gate.

Item he knowith noo thing of the contentes of that vijth or ix Interrogatories.

To the xth he saith that many men be owners of the hous in debate, that is to say m^r Mitton,⁷ m^r Skryvener,⁸ Richard Wantners⁹ lyeing and the Town ij houses next to the said gate.

Item the last Interrogatorie this deponent confessith him to haue known to be true.

To the ij^d Interrogatorie he saith that he hath no knowledge of the contentes therof nee he neuer knew that the bailiffes of Salop euer kept any Court baron or otherwis in that place¹⁰ without estgate or in any other place that is now in debate betwix thabbot and the said bailiffes¹¹ vpon vew of Frankpledge, for he neuer knew any court

⁵ As a matter of fact, so far from there having been peace between town and abbey prior to 1488, a fierce dispute had been waged between the two in 1267, with regard to the small tract of ground east of the Stone Bridge, called Merivale or Muryvale, on which six houses stood. This was probably one of the plots of ground which it was agreed should be left unoccupied in case of war (Ow. and Bl. i. 242). The quarrel was renewed after the charter granted by Henry 7 in 1495, extending the liberties of the burgesses. Ib. 268.

⁶⁻⁶ Interlined.

⁷ There were several members of this ancient family among the inhabitants of Shrewsbury at this time: Thomas Mitton had been bailiff in 1464, 1468, 1472, 1476, 1480, 1484, 1488, 1492, 1496, and 1500, and died bailiff in 1504, when William Mytton was elected in his place (Ow. and Bl. i. 530). There was also Richard Mitton, bailiff in 1503, ancestor of the Myttons of

Garth (ib. 281). A. P. Burke, 'Landed Gentry' (10th ed. 1900), p. 1156. William Mitton (Mutton) represented the town in the Parliament of 1496; died 1512. Ow. and Bl. i. 530.

⁸ The name of a family which had been considerable in the town since the fourteenth century (ib. 174). Robert Scryven was bailiff in 1454. Ib. i. 524.

⁹ Bailiff in 1471, 1483, 1487 (ib.). The first two were probably tefees to uses.

¹⁰ An important piece of evidence, for 'the court baron must be holden on some part of that which is within the mannor, for if it be holden out of the mannor it is voyd.' Coke upon Littleton, 58, a. The court baron was the court of the freeholders of a manor. As to the constituents of this court see 'Trans. R. Hist Soc.' (1892), N.S. vi. 231-235.

¹¹ There follows 'but only the Town court in thaire town,' struck through.

kepte by the said bailiffes but onlye the Town court of Salop in thaire hall.¹²

Thomas Wethyford,¹³ examyned vpon his answer to thabbottes of Salop new¹⁴ bill and certain Interrogatories¹⁵ ministred by the same, saith that the bailiffes of Salop that haue ben as this deponent hath herd say haue takyn the vew of frank pledge in the place specified in that Interrogatorie; albe it he neuer herd that euer any court was kept in that place at any vew takyn there by the said bailiffes, but thaire courtes thay,¹⁶ where it hath ben enquerid of frays & blodsheds,¹⁶ have vsed to kepe within the Town of Salop at thaire hall.

To the ij^d he saith that he hath not known the said vew takyn¹⁷ ouer a vj yere now last past, but the court rolles of the Town shewith that amerciamentes haue be takyn of th inhabitants in the said place now in strif and in the first Interrogatorie specified by the said bailiffes for the time being.

To the iij^d he saith that the Abbottes haue alwey made clayme but otherwis thay neuer interrupted the possession of the said bailiffes by perceyving¹⁸ of any amerciamentes or fines in that place now in debate.

To the iiijth he saith that he knowith noone other autorite but onlye the vsage and costom that it hath be so vsed, so that¹⁹ the distresses be first praised.

To the vth vith and vijth it is ansuerd to the bill.

To the viijth he saith that thabbottes fermer preassid to tak wode Toll within the franchises of the Town & where he ought noon take & courtouslie he was paid to forbere thasking of it there.

¹² A town ordinance of 1433 decrees that 'all the burgesses shall attend the Gildhall atte whatte tyme the bailiffs do make open proclamation as hit hath been used of olde tyme' (Ow. and Bl. i. 208). This was for the transaction of town business.

¹³ Bailiff in 1503, 1508 and 1519, when he died. Ib. 530.

¹⁴ As will have been seen, the abbot had by a former bill procured the issue of a privy seal which had ordered the appearance of William Coll before the Council and had not been obeyed. The 'new' bill seems to be the one which originated this suit and which has been lost. The interrogatories appear to be the same as those to which the foregoing answers were given.

¹⁵ The words 'drawn out of the same' followed, but have been struck through.

¹⁶⁻¹⁶ Interlined. By a charter of May 4, 1341, it was granted that no burgess should be impleaded or charged for any offence arising within the liberties, except by the bailiffs, &c. (Ow. and Bl. i. 162). The grants of the king to the burgesses of a town ousted the jurisdiction of the manorial lords. 'When the king under pain of his full forfeiture ordains that none of them [the burgesses] need answer in any court outside the borough . . . he is practically detaching these burgesses from the manors to which they have belonged and is defying the principle of feudal justice.' Pollock and Maitland, 'Hist. Eng. Law,' i. 630.

¹⁷ An interlineation, 'and fynes takyn for frays & blodshedes' struck through.

¹⁸ Collecting; a classical use of 'percipere.'

¹⁹ 'Thay be' struck through.

The ixth is ansuerd. To the xth he saith that he knowith not the contentes of that Interrogatorie.

To the last he saith as Richard dicher saith in his deposicion.

Indorsed. The examination of the
bailiffes of
Salop vpon
Interrogatories ministred
by thabbot
Dycher & Whetyford²⁰

In modern hand. Salop Abbot of

v.

Bailiffs of the Town.

D. ¹ Termino Trinitatis viij^o die Julii Anno &c xxiiij^o.²

Dominus Cantuariensis Cancellarius³ Franciscus Rede⁴ capitales
Judices. Tremale⁵ Britnell⁶ capitalis baro Scaccarii⁷ Kyngs-
mell⁸ Fysshier⁹ & Buttler;¹⁰ prior sancti Johannis Jerusalem.¹¹

1508 Coram istis dominis & Judicibus predictis perleete fuerunt depo-
siciones & dicta testium productorum tam ex parte abbatis Salopiensis

²⁰ Dicher had been bailiff in 1502; the bailiffs for 1503 were Richard Mitton and Thomas Withyford; for 1504 Roger Forster, Thomas Mytton died, William Mytton elected. Apparently Dicher and Withyford were each bailiffs in the respective years (1502 and 1503) when these disputes came to a head. Dicher's colleague in 1502, William Coll, had been summoned to appear by the privy seal issued in response to the abbot's original bill. See A, p. 180, supra.

¹ S.C.P. Hen. 7. No. 112.

² 1508.

³ William Warham. See p. 227, n. 2.

⁴ This is a blunder for Robertus Rede, of Lincoln's Inn, Serjeant-at-law, 1486; Justice of the K.B. and a knight, 1495; Chief Justice of the Common Pleas, 1506. Died 1519 ('Dict. N. Biog.'). He frequently sat as a Judge in the Court of Requests (see Selden Soc. [1898], Index). The original judgement correctly recites 'Robert.' See n. 12, infra, where note also that Sir John Fyneux, C.J., was present at the original judgement, though having since died he is omitted *eo nomine* from the exemplification.

⁵ Tremale. See Goryng v. Northumberland, Earl of, B, p. 99, n. 8.

⁶ Robert Britnell, or Brudenell, Serjeant-at-law, 1504; King's Serjeant, 1505; Justice

of the King's Bench, 1507; Justice of the Common Pleas, 1509; Chief Justice of the Common Pleas, 1521; died 1531. 'Dict. Nat. Biog.'

⁷ Sir William Hody, A.G. and Serjeant-at-law 1485; Chief Baron of the Exchequer, 1486-1522; died 1522. 'Dict. Nat. Biog.'

⁸ John Kyngsmell, or Kingsmill, of the Middle Temple; Serjeant-at-law, 1494; King's Serjeant, 1497; Justice of the Common Pleas, 1503-1509; died 1509 (E. Foss, 'Lives of the Judges' [1857], v. 57-59). He frequently sat as Judge in the Court of Requests. Seld. Soc., Select Cases in the Court of Requests (1898), Index.

⁹ John Fysshier, or Fisher, King's Serjeant, 1486; Justice of the Common Pleas, 1501-10; died 1510. E. Foss, 'Lives,' p. 166.

¹⁰ John Buttler, or Boteler, of Lincoln's Inn; Serjeant-at-law, 1494; Justice of the Common Pleas, Apr. 26, 1508; died 1517. Ib. p. 138.

¹¹ Sir Thomas Docwra, of Highdown, Herts, Ambassador to Philip, King of Castille, in 1507; to France in 1510, 1514, and 1518; to the council of the Lateran in 1512; to the Emperor in 1521; Grand Prior, 1502-27; died 1527. 'Dict. Nat. Biog.'

pro parte sua quam ex parte balliuorum burgensium ville Salopie predictae, perlegebanturque certe clausule diuersarum concessionum per diuersos Reges Regis nunc progenitores dicto abbati, Et etiam balliuis & burgensibus ville Salopie concessarum quibus sic perlectis dominus cancellarius supra dictus interrogauit Iudices predictos seriose omnes & singulos tunc personaliter presentes quomodo eis visum fuerit pro possessione abbatis supradicti in premissis Et finaliter quid iuste statui debeat pro possessione predicta, qui Iudices omnes & singuli decreuerunt abbatem predictum nullis aliis pro dictis balliuis & eorum clameo ostensis quam sunt ostense possessione omnium de quibus contenditur iuste gaudere debere & quod abbas & successores sui deberent sic iuste continuare possessionem suam sine interruptione dictorum balliuorum & burgensium quoquo modo fienda. Super quo dictorum Iudicum aduisamento dominus cancellarius & ceteri consilarii tunc presentes decreuerunt & adiudicarunt quod dictus abbas & conuentus gauderent de cetero possessione sua in premissis sine Interruptione ut supra. Et etiam decretum est quod omnes Iniunctiones & mandata huic decreto derogatoria & preiudicialia ville Salopie dicto abbati per priuatum sigillum aut aliter quamcunque facta & data sunt prorsus per decretum irrita vacua & nulla & sic pro nullis de cetero de facto haberi.

Indorsed. Decretum pro
Abbate Salop.¹²

In modern hand. Shrewsbury, Abbot of, v. Inhabitants of Shrewsbury.

¹² The Inspeximus and Exemplification setting out the actual words of the original judgement of which the preceding is a translation is of sufficient importance to deserve transcription here. It is calendared in S. P. Dom. Hen. 8, i. 289. The following transcript is from the original in Pat. Rolls, 1 Hen. 8, pt. 1, m. 27.

'Pro Abbate de Shrewsbury de exemplificatione.'

Rex Omnibus ad quos &c salutem. Inspeximus tenorem cuiusdam brevis nostri *per breve de priuato sigillo ac de data &c.* de certiorando dilecto nobis Roberto Rydon *per ipsum Robertum* clerico Consilii nostri nuper directi in filaciis Cancellarie nostre residentis in hec verba Henricus dei gratia Rex Anglie & Francie & Dominus Hibernie Dilecto sibi Roberto Rydon clerico consilii sui salutem Volentes certis de causis cerciorari super tenore

cuiusdam decreti siue Iudicii per Willelmum Cantuariensem Archiepiscopum Cancellarium Anglie & alios de consilio domini henrici nuper Regis Anglie patris nostri tunc existentes inter Abbatem & Conuentum Salopiensem Balliuis & communitates ville Salopie nuper redditus Vobis mandamus quod tenorem decreti siue iudicii predicti cum omnibus eum tangentibus quibuscunque nominibus partes predictae in iudicio siue decreto predicto censeantur nobis in Cancellariam nostram sub sigillo vestro distincte & aperte mittatis & hoc breve. Teste me ipso apud Westmonasterium xx die Maii Anno regni nostri primo. Yong. Inspeximus vltierus quandam certificacionem per prefatum Robertum pretextu brevis nostri factam & in Cancellariam nostram missam in filaciis eiusdem Cancellarie nostre residentem in hec verba. Domino nostro Regi in Cancellariam suam Ego Robertus Rydon consilii regii clericus certifico quod virtute vigore &

*-a Interlined.

E. To the Ryght Reuerent Fader in god William Archebyshop of Cantorburye And Chauncelar of Englonde.

A second byll.¹

1509 Shewyth To your grace your dayly Oratours and bedemen the abbott of Shrewesburye and the Couent of the same of the dysposicion and demeaner of Thomas Wythyford² one of the balyffes of Shrewesburye Richard Fysshier hys serieant and of William Dethyk hys cachepoll³ committed and done to your seid Oratours syth the last day of May last past and syth the same Wythyfordes last beyng before your grace in the Kynges Starr Chamber⁴ as toychyng the liberties and franchises of the same abbott and Couent.

auctoritate brevis Regii huic certificatorio annexi libros actorum consilii recolende memorie domini Henrici illius nominis septimi Regis Anglie inactitatorum diligenter perscrutatus sum Quibus vero in libris reperio quod octauo die Julii anno regni Henrici septimi vicesimo tercio quoddam decretum sub tenore subscripto per dominos eodem in iudicio designatos redditum extitit cuius decreti tenor sequitur de verbo in verbum. In the mater of varians apendyng byfore the moost reuerent fader in god the Archiebischopp of Caunterbury And chaunceler of England and other the lordes of the Kyngys moost honorable counseill bytween thabbat and Couent of Shrewesbury oon the oon partie and the bayleifys and the Cominaltie of the same towne of Shrewesbury on the oder partie The title of the said Abbot & Couent to them by dyuerse olde grauntes and confirmacions of the Kynges noble progenitours theyre courte rollys and dyuers deposicions testifying and prouyng the continuance of theyre possession of and in the same & the title of the said baylefis & cominalite by the said counsell well and determinatly had seen and ripely vnderstoud it is ordered and decreid by the same counsell by suche aduyse and consent of all the Kynges Jugges bothe of his benche and of his common place Whith the chief baron of his Eschecar then beyng present That is to say sir John Fyneux knyght Thomas Tremayll and Robert Brutenell Jugges of the Kynges benche, Syr Robert Rede knyght sir John Fysshier knyght John Kyngesmeill & John Butteler Justices of the Comon place and Syr William hody chief baron of theschekar and the lorde of saynt Johns of Jerusalem, that the said Abbat and Couent and thayre Successors shall haue possede frely vse and enyoie all liberties Franchises possessions and other

thynges in varians bytwene the sayd Abbot and Couent of that oon partie and the said Bailiffis and cominaltie of that other partie Withoute lett or interrupcion of the same Baylieffes and cominaltie and theyre Successors or eny of them or eny of them^b or eny other for them or by thaire or eny of theirre abbettyng procuryng or sturrying and that all Jniunccions made hertofore to the said Balliffes & their successours by the moost Reuerent fadre in god and other lordes of the Kynges moost honorable Counseill be ferme and stable and stond in thaire full strenght after the purporte of the same and that all enjunccions and commaundmentes at the sute of the said Ballietes burgesens and cominaltie yeven to the said Abbot by priuy Seale or other Wise contrary to this decree be clerely voyde and of none effecte and thabbot clerely discharged for euer more. Et ego Robertus antedictus iuxta mandatum in brevi supradicto michi directum tenorem decreti huiusmodi domino nostro Regi nunc in Cancellariam suam mitto vna cum eodem breui datur quo ad sigillacionem huius certificationis ante penultimo die mensis Maii anno Regni Regis henrici octauu primo Rydon. Nos autem tenores brevis & certificacionis predictae ad requisiciones predictorum Abbatis & Conuentus duximus exemplificandos per presentes. In cuius &c Teste Rege apud Westmonasterium decimo die Julii. See Introd., pp. xxxv-xxxviii.

¹ In another hand.

² See C, p. 186, n. 13.

³ 'Tho' it now be us'd as a word of contempt, yet in ancient Times it seemeth to have been us'd without reproach, for such as we now call Sergeants of the Mace or any other that use to arrest Men upon any cause.' Cowel, Interpr. s.v. Catchpole.

⁴ I.e. in 1504; see D, p. 187, n. 12.

^b Sic.

Furst where ther was dyuers pryue Sealys dyirected to dyuers men of the Towne of Shrewesburge For ther Riotous misdemeaner lately committed and done in the Franches of your seid Oratours contrarye to the ordenaunce decreyd by your grace and the honorable lordes of oure late soueren lordes Counsell wyth the assent and agrement of all ⁵ the Juges of the Realme and the Chyff Baron of the Kynges Escheker then beyng of which Pryuey Sealys one was delyuered to Thomas Knyght ⁶ an oder to Elys Thomys beyng Comyn Serieant ⁷ there and the seruant of your seid Oratours would have delyuered the Thyrd Pryuey Seale to the partyes conteyned in the same and then come the same Wythyford to hym and ⁸ wold not suffer ⁸ hym to ⁹ delyuere ¹⁰ the Pryuey Seale For he wold answer for them all.

Item where the seid Pryue Sealys were delyuered to the seid partyes on Trynite Sunday last past ¹¹ the seid Thomas Wythyford nowe balye knowyng the delyuere of the same & heryng the Decree opynly redd before hym at hys last beyng before your grace on the morowe aftur caused hys Sarieantes & seruantes to bere their mases in to the abbottes Franches welnygh to the wall of the monastery. ¹²

Item on Corpus Christi day last the same Wythyford knowyng the Decree and delyuere of the Pryuey Sealys caused hys Sarieant and offycers in hys presens to bere their mases in the Franches & libertes of your seid Oratours and the seid abbott required the seid Wythyford and hys offycers to lay downe their mases wherunto he answerd & seid he wold justify hys doying.

Item on the Seturday next aftur that Rychard Fysssher Serieant to the same Wythyford and William Dethyk hys Cachepoll by the

⁵ See p. 199, n. 2, *infra*.

⁶ Perhaps as next on the list for bailiffs, for he was bailiff in 1509. The day of election was fixed in 1433, as the Friday after St. Giles's Day (September 1). Owen and Blakeway, i. 206. As Wythyford, elected in 1508, is expressly stated below to be 'now balye,' this document probably belongs to the interval between June 24 (Corpus Christi Day, 1509) and the election of bailiffs on September 1 following. It appears, however, from 'L,' *infra*, that the bailiffs did not go out of office on that day, for William Mitton and Thomas Wythyford, who were bailiffs in July 1508 (pp. 200, 203), were still bailiffs on the following October 4; but in the same document ('L') they are described as on October 6 having been 'baylis the yere before' (p. 207). It follows that the new bailiffs came into office on October 5 or 6, for it is added that Thomas Knyght was 'the new chosen bayly.'

⁷ The sergeants were resident burgesses

appointed by the bailiffs and removed every year. *Ow. and Bl. i. 173.*

⁸⁻⁸ Interlined in substitution for 'desired' struck through.

⁹ 'have the,' which followed, is struck through.

¹⁰ 'of,' which followed, is struck through.

¹¹ May 26, 1509. In Easter term, 1 Hen. 8 (1509), it is recorded in *Lansd. MS. 639* that 'a Privy Seal (was) decreed to the Bailiffs of Shrewsbury to keep the peace to the Abbot of Shrewsbury, the like process to the Abbot' (J. S. Burn, 'The Star Chamber,' p. 38). In 1509 Easter Term began on April 17 and ended May 13. As this decree is dated 1 Hen. 8 it must have been on or after April 22, the day of Hen. 8's accession, and was probably issued towards the end of the term, which closed thirteen days before it was served.

¹² The town was obliged to relinquish this pretension. See *Ow. and Bl. i. 272.*

commaundement of the same Wythyford come into the Fraunches of your seid Oratours and Summoned the inhabitant and resiantes dwelling within the seid Franches to appere at theire Court which they refused Wherefore they crossed theire dures wyth Chalke and amersed them which Was neuer sene before and the same day wold haue taken a wey the Toll of your seid Oratours. Wherefore gracious lord seyng that thys presumptuous & malicious demeaner is committed and done by the hygh and Wylfull mynde of the same Wythyford and hys adherentes¹³ which fere not the penalty of the seid decre¹³ seyng and affermyng to the Comyns there that the decre is but a Skrewe of paper and not to be obeyed by the Which he contynuis hys vnlefull possessyon in the seid Fraunches and Wyth those Wordes blyndes the myndes of mony of the Comyns there that hyt may plesse the same youre lordshyp that the same decre may be exemplified vnder the Kynges brode Seale and that the same Wythyford may be punysshed accordyng to hys demener.

F.¹

1509 The summary of the controuersies depending betwen thabbot of Shre[wsbury]² & the bailifes & enhabitauntes ther, wherof the originall complaint w[hich]² [we]² can now finde was the xixth yere of king henre the vijth termino hillarii.³

Vpon the which complaint conteynyng diuerse articles as by the supposell of thabbot committed contrary to [pryvy]⁴ seale to the said bailifes & enhabitauntes directid, after the mater berd & duely examined by the⁵ mooste Reuerend fader in godd William archebisshopp of Caunterbury Chaunceler of Englande & the lordes of the kinges mooste honourable counsell & aswell the⁶ allegingis of that oone party & that oder as the aunswers & Replicacions, & alsoo the deposicions of witnessses for eider partie herd & Redd bifore the lordes aforesaid, It was decreed⁷ the eight day of July the xxij yere of King henry the vijth⁸ that the said⁹ Abbot & convent shulde enjoye their possession of & in euery thing conteyned in the said bill, vpon the which possession the saide Abbote & ¹⁰ bailifes Remayn yet in trauerse.

¹³⁻¹³ Interlined.

¹ S.C.P. Hen. 8. Bundle 18, No. 318.

² Paper torn.

³ January 23 or 24 to February 12 or 13, 1504. J. J. Bond, 'Handy Book of Dates' (1889), p. 94.

⁴ Paper torn, but the tails of the y's left.

⁵ The words 'lords of the,' which followed, are struck through.

⁶ The words 'deposicions of witnessses of the allegacions [?],' which followed, struck through.

⁷ The word 'that' struck through.

⁸ 1508. The form seems to indicate that Henry 7 was dead.

⁹ The words 'prior shulde enjoye,' which followed, struck through.

¹⁰ The word 'town' struck through.

The which Restith in oon thing especially ¹¹ which is whider a bridge ther called Stanbrige ¹² & a hamelet called meryvale ¹² be within the fraunches of the Abbott, or eny parcell therof, & whider thabbot & his predecessours haue been in possession of the said Bridge & hamelet as percell of & within theire fraunches And if ony parcell be within the said abbottes fraunches whou ferre it extendith

& vpon this same dependith the Residue of the controuersies

bitwen thabbot & the baillifes & inhabitauntes above named.

Of the which the first is whider thinhabitauntes of the said Bridge & hamelet be within the lete of thabbay or of the toun.

The second whider the sergeauntis & cachepollis ¹³ of the toun of Shrewesbury may doo their offices of aresting vpon the said bridge or within the said hamelet.

The thirde wheder thabbot by the Reason of his fraunches may take the toll of woodd & cole caryed ouer the saide bridge vpon the same bridge.

The fourth whider the ij houses buylded there vpon a groundesumtyme lyeing voide be buylded vpon thabbotes freeholde, or els that the town was wont to enyoye the same groundes as theire propre groundes to make afforciamentes & bulwarkes in, in Tyme of warre.¹⁴

Indorsed. Thomas pewes boucher, Griffith brounlowe bocher
Thomas boughton bocher John Spinell bocher John
Friser boucher.
Thomas withson ¹⁵
Abbas de Salop.

G.¹

- 1509 { Interrogatories How Far the abbot of Shrouesberys Fraunches
extendith fro the stangate toward collame.²
+ { Item whedur the seriantes of schrouesbery vsid to bere ther mase ³
& to make any Arestmentes be twix the stangate & the abbey.
+ { Item whedur the abbot of Schrouesbery be lord & owner of
the groundes whervppon Richard pynner & Thomas Bottfild have bylde
ij howsis.

¹¹ The words ' & therupon ' struck through.

¹²⁻¹² Interlined.

¹³ See E, p. 189, n. 3, supra.

¹⁴ See B, p. 184, n. 8, supra.

¹⁵ The circumstance that five of the six names of laymen are the names of butchers suggests that these were inhabitants of the suburb called the abbey foregate, who were

not allowed to practise their calling within the walls of the town, and that they were witnesses, on behalf of the abbot, to whom the interrogatories were to be put. None of the names appears in the list of bailiffs. Cf. p. 195.

¹ S.C.P. Hen. 7, No. 112.

² See A, p. 181, n. 21, supra.

³ See L, p. 204, n. 25, infra.

- + Item whedur the abbot have usid to kepe a gret lete in the abbey & whedur al the inhabitantes be twix the abbey & the stan gate⁴ have vsid to com & appere at the seid lete.
- + Item whedur he knewe that the abbot was peaseably possessid of the landes liberties & Franches be twix the abbey & the stangate & how long hit is a go soth he knew the premisses.
- | Item whedur he hath knowin any Afforciamment or bulwerkes that hath be made vppon the grownde whervppon the forseide howsis byn bylde.³
- × Item whedur the abbot haue byn in peaseabyll possession to take toll of wode & Colys that is Caryed in at the Stangate at schrouesbery in what place the seid toll hath be vsid to be takyn.⁵

H.¹ Vltimo die mensis Februarii in domo mansionis mei
Roberti Rydon² Londonii situata.

1509 Thomas Cleberie of the parisshe of Saint Sepulchre withoute Newgate in the suburbs of the Citie of London Bruer,³ of thage of lxxij yers as he saith sworne and examynied of and vppon the matiers depending in this counsell betwix Thabbot of Salop on that oon partie and the bailiffes and comminaltie of the same Town on that other partie, and in especiall vpon certayn Interrogatories ministred on the behalf of the said Abbot, drawn oute of suche billes as the same abbot hath put agens the said Bailiffes &

In primis to the First and ij^d Interrogatories the Teneour wherof

⁴ See B, p. 183, n. 6, and p. 184, n. 8, supra.

⁵ Written on f. 5 of the paper book described on p. 196, n. 1, infra.

¹ S. C. P. Hen. 7, No. 112 (cont.).

² Robert Rydon (or Roydon [S. P. Dom. Hen. 8, iv. 6490]) was clerk of the Council. He was probably a member of Lincoln's Inn in 1505 ('Black Books of Lincoln's Inn,' 1897, i. 137). Under Edward 4, in 1482, he had been official prosecutor for *lèse-majesté* in the Courts of the Constable and Admiral of England, with a salary of twenty marks (13*l.* 6*s.* 8*d.*) (Pat. Rolls, 1476-85, p. 343). Richard 3 made him a commissioner of the Admiralty on April 8, 1484 (ib. p. 391-2). He retained favour under Henry 7, being nominated, with Richard Mayowe, or Mayew, President of Magdalen College, Oxford, joint envoy to Spain on September 15, 1490 (Campbell, 'Materials,' ii. 508). He was appointed clerk of the Council in 6 Hen. 7 (1490-91) after his predecessor John Bladswell's 'deadly sickness' (John Baldisswell, in S. P. Dom.

Hen. 8, iv. 6490; J. S. Burn, 'The Star Chamber' [1870], p. 21), where is a list of the clerks (see also W. Hudson on the Star Chamber in 'Collectanea Juridica' [1792], ii. 39). He it was who, on July 10, 1509, wrote the exemplification of the decree of the Star Chamber of July 8, 1508 (see S. P. Dom. Hen. 8, i. 289, and p. 188, n. 12, supra). He died in 1509, for on October 19 of that year John Mewtys, the king's French secretary, was nominated clerk of the Council 'vice Robert Rydon deceased' (ib. 588). Cf. also 'Trans. R. Hist. Soc.' 1902, pp. 152, 156. Hudson (l.s.c.) states that in 1 Hen. 8 (1509) John Valentine succeeded Rydon as clerk of the Court of Star Chamber; but this must be incorrect, for we have the signature of John Mewtis as clerk of the Court on p. 208, infra.

³ A trade much pursued in the neighbourhood of Holborn. See 'Select Cases in the Court of Requests' (Selden Soc. 1898), p. 48, 'The Brewers, &c., of Holbourne v. William Bobye.'

is this—Item houfarre Thabbot of Salop franchies extendith fro the Stongate toward Collam—this deponent saith and deposith that he knowith right wele that the Franchies of the said Abbot begynneth evyn fro the gate callid Stonegate vntill the brigge of Colham which brigge of Colham is a stone brigge and half of that brigge appertaigneth to the said abbot and that other half to the said Town, and fro the said Stongate vnto the townes parte of Colham brigge it is the franchies and liberties of the said abbot. This deponent demawnded of⁴ me theexamynour how he knowith his deposicion aforsaid to be true deposith and saith that thus he knowith it. His fadre callid John Cleberie by licence of thabbot that then was bylded ij⁵ houses vpon the ground next^{†6} adioygnyng to the voyde ground⁷ which voyde ground⁷ was kept voide next to the said gate and betwix the said hous bylded by this deponentes fadre and that gate to make bulwerkes and fortressis in time of werre there for which ij houses this deponentes said Fadre paid yerlie to the said monasterie xx s. Item this deponent saith farthre that he knouith by a nothre reason that fro the said gate to the said colham brigge⁸ and also fro the same to the abbey⁸ it is thabottes franchises aforsaid, for this deponent as he saith was borne in oon of the said houses and dwelled with his fadre in the same hous vntill he were fast upon xx^{ti} yere old and then he went frothens vnto Couentre and there was apprentice vij or viij yere and afre that was maried and come agen to Salop, and kept a shop without the said stonegate by the space of ij or iij yere, and fro the yeres⁹ his discrecion by all the time that he dwellid first with his fadre as is aforsaid and afre maried that he kept the said shop this deponent knew that the bailiffes of Salop neuer had any thing to do fro the said gate towardes Colham vntill thay come to that parte colham brigge that belongith to the town of Salop, nether they made any arest, nether levyed any amerciamentes in any parte of that space. And this deponent knowith verelie and hath seen an c times and how many times more he can not now remembre that the bailiffes of Salop when thay come with their mases born before thaim to the said Stangate to goo farther by or thorough the said Abbottes franchises toward Colham, the said masys were laid down and sometime lefte within the said gate at a tenauntes hous there, and sometime without the gate in a glovers hous in knouedging of that franchises to be thabottes and not the townes of Shreusberie. Item this deponent knowith by the

⁴ I.e. asked by.

⁵ Interlined in substitution for 'an' struck through.

struck through.

⁶ Sic; a cross here in MS.

⁷⁻⁷ Interlined in substitution for 'that' struck through.

⁸⁻⁸ Interlined.

⁹ Sic; 'of' omitted.

ij^d reason that it †¹⁰ is belonging to the said Abbot as in the right of his monasterie evyn fro the said gate forthward as it is before said, for this deponent knew ij brethern boehres both that dwellid in ij light⁸ shoppes which stode in the voyde ground next adoygnyng to the said gate and without the same in which the said fortressis shold be made in time of werre,¹¹ for which ij shoppes the same bochers paid the Rent to the vse of the said abbot and his monasterie. More &c.

Item to the ij^d Interrogatorie he saith he can not clerlie depose whether thabbot be Lord of that ground yea or nay, but when this deponent duellid there he herd say that ther were few houses fro the said gate to Colham or to thabbey but the monasterie had a Rent of it for the grownd.

Item the iii^jth Interrogatorie containgnith a trouth of his verey knowledge for he saw aslong as he dwellid there that lete court kept in thabbey every ij wekes and all thos inhabitantes dwelling vpon the ground in that Interrogatorie comprised appered at the same court.

Item to the vth Interrogatorie he saith that fro the time of his age of his discrecion he hath known thabbotes of Salop in playn and peasible possession of all suche liberties⁸ and fraunches⁸ as be now interrupted by the said bailiffes vntill within this Dosen yere and that the bailiffes of Salop for that time neuer medled with any parte of the said franchises asfarre as euer this deponent coude heere see or haue any knouledge. More &c.

Item to the vjth this deponent saith that he is not remembred that euer he saw any fortresse or bulwerk in that voide ground but he is wele remembred that he saw vpon the same void ground ij postes of a greate bignes for to fastyn the said fortresses and bulwerkes.

Item to the last Interrogatorie he saith that he hath seen the aforsaid Abbottes peasiblie possessed of taking suche Toll of Colys and woode as is in that Interrogatorie specified, and that as farre as this deponent is remembred it was neuer said the contrarie by any man but that him aught to have it, and this deponent saw the abbottes fermours take the same Toll any where within his said franchises evyn to and in the said voyde place adioignyng to the said stangate and this deponent neuer knew nether herd the bailiffes of Salop to impugne the taking of Toll or againsaye it in the said place callid the place for the fortresse or any place els without the said gate.

¹⁰ Sic; a cross in the middle of the top of the leaf.

¹¹ See p. 184, n. 8, supra.

I.¹ Pro parte abbatis

xiiij^o die Octobris² in Camera Stellata.

John Aylof of Coventrie marshall vnto the prioure³ of the same of the age of iiij^{xx} yer save ij as he saith gentill man sworn and examyned of and vpon the materes dependyng in the Councell betwixt the Abbot of Salop on the on partie and the Bailyfes and comminaltie of the same town on the other partie and in especiall vpon Interrogatoryes⁴ ministred by the Counsell⁴ of the said Abbot &c. The⁵ tenour of the⁵ fyrst and the ij^{de} Interrogatoryes ys⁶ thys Item howe farre the⁷ abbot of Salop frauncheis⁸ extendyth fro the stone gate toward Collham. This deponent saith that he neuer knewe other wysse but that the fraunchesse of the said Abbot begynnyth at the Chanell without the stone gate and contynuyth vntyll the Abbaye and that all the Inhabytantes of Both the sydes of the same strete ys all withyn⁸ the franchises and libertyes of the Abbote of Salop And also thys deponent saith that betwixt the said Chanell and the Abbey of salop ys ther a stone Bryge withyn the said fraunchesse of the Abbey. And also thys deponent saith that in hys dayes vpon xxx yeres past or ther abowtes he dwelt in the⁹ franchises of the same Abbey⁹ the space of vij yeres and more contynually And he neuer knewe but that the Byrge Callid Collam Byrge was withyn the liberties of the same Abbot & in the franchise of the same place. And farthermor as fare as he ys¹⁰ remembryth noon of the sergeantes of the said towne shalld make noone arest of the same Brige of Collam howbe it of this he ys not well remembryd for at that tyme was noon suche varyance. But he saith he remembrith well that noo sergeantes ne other offyceres of the towne shall niether arest ner medell fro the forsaid Chanell vnto the abbey ner bare noo masse but only the Baileyf of the franchises of the¹⁰ said abbey.

Item to the ij^{de} Interrogatorie he saith that in hys tyme dwellid

¹ S.C.P. Hen. 7, No. 112. A paper book, consisting of nine leaves, of which the first four are yritten front and dorse, the fifth, containing the interrogatories, on the front only, and the remaining four are left blank.

² If this document belongs to 1509, the delay since the previous examination in February may perhaps have been due to the illness and death of Robert Rydon, the clerk of the Council. See H, p. 193, n. 2, supra.

³ William Polesworth, 1500-16 (Dugdale, 'Monast.' iii. 183). Coventry was also a Benedictine house, and the prior sat in Parliament. See Browne Willis, 'Hist. of Mitred Parliamentary Abbies,' 1718, i. 70.

⁴⁻⁴ These words interlined, in a different hand and ink, in substitution for 'drawyn owt of the bylles,' which is struck through.

⁵⁻⁵ Interlined as above.

⁶ Interlined as above in substitution for 'begynnith' struck through.

⁷ 'Stonegate' struck through by the scribe of the body of the MS.

⁸ Interlined in the same hand and ink as 4 and 5, in substitution for 'longyng' struck through.

⁹⁻⁹ Interlined by the scribe of the MS. in substitution for 'same towne of Shrewsbury' struck through.

¹⁰ Interlined by the scribe of the MS.

ther on Thomas Wentnoure a Bocher and at that tyme he was tenaunt to the said Abbey and ferther he saithe that he knewe neuer but all the said howses ware longyng to the said abbey and withyn the francheis and lybertyes of the same.

Item the iiijth interrogatorye containith of a trowth of hys very knowlege as longe as he dwellyd ther all the inhabytantes dwellyng vpon the same grownde¹¹ betwixt the abbey and the forsaid Chanell apperyd at the lete holdyn in the forsaid abbey.

Item to the vth he saith that fro the tyme of hys fyrst knowlege of the same towne and fraunchesse the said abbote hath ben in peasable possession of hys said libertyes that euer he sawe or harde tyll nowe of late he harde therof ij yeres past of which he marueld.

Item to the vjth thys deponent saith that he neuer knewe noo such place wher any such fortresse or Bullwarke should be for he knewe it neuer but that yt was mansions¹² as fare as he Can remember.

Item to the last Interogatorie thys deponent can no thyng depose for he neuer markyd it & therfor he can no thyng remember therof.

Richard Vpton of Vpton¹³ gentilman of the age of iiij^{xx} and x yeres or therabouts as he sayth Sworn and examynid vpon the same interrogatoryes deposyth and saith to the first and the ij^{de} of the same Interogatoryes That for of trowth he hath knowyn¹⁴ thos thinges now in debate by¹⁴ the space of xl yeres and mor And that yt was euer longyng to the Abbot and hys fraunchesse and libertie from the Chanel to the said Colam Byrge¹⁵ vpon the whiche Brigge there is ij hoolys for a marke of knowlege.¹⁵ Also thys deponent saith that of trouthe that he neuer knewe that the sergeantes of Shrewsberye shuld nether Bare masses ner make eny arestes fro the Chanell furthe¹⁶ without the stone gate¹⁷ in any of the said abbots Fraunchese¹⁷ but that yt was euer the libertie and fraunchese of the Abbot, and that noo offycer medlyd with yn the said libertie but the bayly of the said fraunchyse of the Abbot.

Item to the iiij^{de} he saith that he knew not verily whether the Abbot be lorde of the said grounde wher the said houses be bylldyd but he saith that vppon xx yeres past as thys deponent remembryth

¹¹ Interlined by the scribe of the MS. in substitution for 'comprised in the same' struck through.

¹² This word did not at this period connote size or importance. See 'Trans. R. Hist. Soc.' 1893, n.s. vii. 168, 169.

¹³ Upton Cresset, near the Clee Hills. Ow. and Bl. i. 243.

¹⁴ Interlined by the scribe of the MS. in substitution for 'it.'

¹⁵⁻¹⁵ Interlined by the scribe of the MS. in substitution for the words following, viz. 'but whether the said byrge be belongyng to the abbottes franchise thys deponent can not depose but'

¹⁶ Interlined in a different hand and ink.

¹⁷⁻¹⁷ Interlined in a different hand and ink in substitution for 'vntill the Abbey' struck through.

on Thomas wantnore¹⁸ kept a Bocheres shop wher on of the said houses ar byldye and he saith he knowith of certen theit he was tenaunte vnto the said Abbey and aperyd at the court of the said abbey.

¹⁹ Item to the iiijth ¹⁹ he sayth that the said Abbot yerly kepith ij gret letes within the said Abbey, and also this deponent sayth that all thinhabitantes bitwix the said Abbey and the stangate haue vsed to comme & appere at the said gret letes and at other smalle Courtes.

Item to the vth ²⁰ this deponeth ²¹ sayth that alle the tyme of his lyf the said Abbot and his predecessours haue been peasybly possessed of alle the landes liberties and Franchises betwix the said Abbey and the said stangate vntil now within fewe yeres past that the Baillifes & Township of Shrewysbery haue made a chalenge to a parcell of the same.

Item to the vjth ²⁰ this deponent sayth that he neuer see nor knew no afforciament ²² or Bulwerkes made vpon the said grounde where the said howses be bylded.

Item to the vijth ²⁰ this deponent sayth that he knowith not whether the said Abbot euer toke any tolle of wode & Colys that is caryed in at the stangate aforsaid. And also this deponent vnderstandith not in what place the said tolle hath been vsed to be taken &c. more he cann not shew in the premisses.

J. To the Right Reverende fader in god the archbisshoppe of
1509 Canterbury & Chaunceler of England.¹

Plese it your grace to Remembre the long & contynuall Sute made by your oratours the abbot of Shrosbery & his covent to your good lordship & oder lordes of the late Kinges moost honorabil counsell of for & vppon the monyfold riettes oppressions & wranges don to him & his monastery by the bayliffes of the town of schrosbery for the tyme beyng & the comminalty of the same for vsurping and taking From the seid abbot & covent their landes Franchesis & liberties, vppon whiche longe & continuell sute, as well the charteris, Evidence, curt Rollis proving the Right & continuell possession of the seid monastery as the Right of the seid bayliffes & commynalty discretely & diligently by your good lordship & oder lordes of the seid late Kinges moost honorabill counsell with & by the advises of all the Jugges then beyng

¹⁸ Interlined in a different hand and ink in substitution for 'wontnor.'

¹⁹⁻¹⁹ In the same hand and ink as the corrections before noted.

²⁰ 'Article' struck through.

²¹ Sic.

²² Fortress, fortified place. J. A. H. Murray, 'Eng. Dict.'

¹ S.C.P. Hen. 7, No. 112.

of England² and the cheff³ Baron then & now of the kinges eschekyr it was decreid⁴ that the seid abbot & his successours schuld peseably vse occupy & enjoy the seid landes franchises & liberties in debate with owt lette or interrupcion of the bayliffes & comminalty off the seid town wherfor the seid abbot & covent specially⁵ beseche the King our souerayne lorde & your good lordschip that the seid decre so solemnly & by so grette advise geven & made & vnder the Kinges brod seale exemplified⁶ may stande ferme & stabill & that the offenderys contrary to the same may be ponyshed as by your good lordship schall be thowghte resonabill.

My good lord the bayliffes in the name of the comminalty haue made a byll of their mynde in three articles.

The fyrst is to ordyr theym to the commyn law which is an vn-reasonabill desire remembrynge that the gentilmen & inhabitans dwellyng in the seid town be so kynnyd Frynded alyed & in fauor with the gentilmen & odyr of the same schire⁷ that the seid abbot can have non indifferent triall there, & that was the principall cause that he began his sute here.

Item they desire the mater may be put in compromise to endifferent men Whiche desire is not Resonabill for my lord I know noon moore endifferent men then your grace & the lordes of the Kinges moost honorabill counsell whiche haue made your awarde & decre in this mater wher vnto I moste⁸ holde me & truste.

Item they desire that the seid abbot may schow his charterys & Evidence And that that can be provid his Right he schall haue with the fauor of the town.

² See D, p. 187, n. 4, and p. 188, n. 12, supra. 'At the King's [Henry 7's] death there were only three [Justices of the Common Pleas], viz. Robert Read, Chief Justice, John Fisher, John Boteler' (E. Foss, *Lives*, v. 10).

³ 'Jugge' struck through.

⁴ See *Introd.*, p. xxxv, supra.

⁵ 'require &' struck through.

⁶ In Page's case, Mich. 29 and 30 El. (1587) lib. 5, fo. 54, it was resolved by the whole court of Common Bench 'that no record or inolment of any record may be exemplified under the great seale, but of a record of the court of chancery, or other record duly removed thither by certiorari' &c. E. Coke, 3 Inst. 173. But Coke says, 4th Inst. 66: 'The processe in this court [the Star Chamber] is suppœna, attachment, processe of rebellion &c., all under the great seal.' Semble that a decree under the great seal may be exemplified under the great seal. In S. P. Dom. Hen. 8, i. 711, occurs an instance of an exemplifi-

cation of a decree in the Star Chamber sent into Chancery by John Mewtis, clerk of the Council. The inspeximus and exemplification in this case of the abbot of Shrewsbury consisted of two parts: the first, a writ of certiorari dated May 20, 1 Hen. 8 (1509), directed to Robert Rydon, clerk, requiring the tenour of a judgement given by William archbishop of Canterbury and others of the Council on a dispute about certain possessions &c. between the said abbot and convent and the bailiffs and commonalty of Shrewsbury; and the second a certificate (exemplification) of Robert Rydon reciting the decree of the Council on July 8, 23 Hen. 7, in favour of the said abbot (S. P. Dom. Hen. 8, i. 289). See p. 188, n. 12, supra.

⁷ This suggests that the abbot and monks were unpopular even with the gentry; but it seems to have been otherwise with the abbot and monks of Byland. See p. 261.

⁸ Interlined in substitution for 'will' struck through.

My good lord I dowte not but that ze call to your mynde many charteris curt Rollis long continuance of possession with diuerse proves bothe olde & new as wel of the bayliffes of the seid town then beyng as off oder proving the Right & possession of the landes & franchises in varians to be of Right & olde continuance to the seid monastery, whervpon ze commawndid the seid abbot to make a breuiat⁹ wodurwise called a summary of al his charteris curt rollis evidens & proves concernyng the Right & title of his mater & so he did, which Restith of Recorde before your good lordschip And vpon the same duly provid before your lordschip & the lordes of our late souereyne lordes councel it was decreed¹⁰ as is above seid according to true Justice & the verye truthe of the mater And if it plesse your good lordschip to commande the same breuiat & summary here beyng of Recorde before yow to be Red the same abbot is here Redy present effte sonys¹⁰ to schew his charterys court Rollis evidens & deposicions to prove his Right in the same, For he seith that this new bill is for to delay the mater & to delay their ponyschment For their offences late doon contrary to the seid decree and for no cause elles.

Indorsed in modern hand.

Shrewesbury, Abbot of

v.

Bailiffs of the Town.

K.¹ To the most reuerend father in god Wylliam Archbyshopp of Canterbury & Chaunceler of England.

1510 Humbly shewith vnto your grace your pore Oratours the hooll commynyalte of the inhabitantes of the Town of Shrouesbury, That where We the seid commynyalte be credibly informed by Roger Thornes² & Thomas knight³ oure Bailiefes, That the abbot of Salop shuld puplice & openly say before your grace sitting in the Sterre Chambre that all suche variANCES discordes & controuersies had & as yet depending before your said grace vndiscussed bitwixt the said abbot & vs were only fortified pursued & maynteyned by the sinistre myndes & meanes of oure said Bailieffes with othre ij or iij persones vnto them associate & of theire affinites in that behalue, contrary to the mynde of vs the said comens, And further was reported vnto your grace that We the said comens & inhabitantes knowing oure silfes to

⁹ The earliest instance of the word cited by Murray is in 1581—J. Beil Haddon's 'Ann. Osor.' 226—'A Breviate of all Luther's doctrine.' 'Eng. Dict.' s.v.

¹⁰ See p. 110, n. 11.

¹ S.C.P. Hen. 7, No. 112.

² See p. 205, n. 30, and p. 208, n. 49.

³ See p. 203, n. 5, and p. 208, n. 49.

haue done vnto the said abbot wrong & Iniury in vsing & occupyeng suche liberties as the said abbot maketh pretense vnto, wold gladly of oure fre willes & myndes surcease oure said vsing & occupyeng the said liberties and alsoe surrendre & yelde vnto the said abbot all suche interesse & title which he pretendeth & claymeth to haue of vs before your said grace without further trouble or inquietacion if our said Bailiefes wold consent & be agreable vnto the same, of whiche surmyses & reportes thus published before your grace by the said abbot we gretly marvell trusting your grace will in noe wise yef perfit credence vnto any suche forgedd surmyses &c. Wherefore We the comynyalte forsaid of oure holl assentes & consentes certyfyte vnto your grace that it is & hath be oure perfit willes & myndes that oure Bailiefes that nowe be & they that herafter shalbe frely & peasibly shall vse enjoy & occupy the stanbruge with the appurtinaunces as parcell of the kinges enherytaunce perteynyng to his Crowne & of his liberty of the Towne & franchise of Salop & porcion of oure Fe Ferme whiche Bruge with the appurtinaunces was parcell of the said Towne cc ccc yeres & more before the tyme the abbey there wes foundid ⁴ & wherof we & oure predecessours contynuelly haue be possessed & the same haue used & occupied as parcell of the said Towne & liberte of the same. Wherefore We in oure most humble maner beseke your grace not to obiette & ley the charge therof to oure said Bailiefes by the sinistre surmyse & reporte of the said abbot for of a surety it is all oure deedes & not only theires. Therefore we specially trust your said grace to be theire & oure singuler good lord in the premisses, and that it may please you to vnderstand that of late dayes seth the departing of oure said Bailiefes from your grace oone John lye Stuard vnto the said Abbot ⁵ & othre evill disposed persones to hym associate riotusly assaulted the sergeantes of our said Towne & putt them in gret Fere, And after thus done Riotusely disobeyd oure Bailief Thomas knight the kinges lieftenaunt ⁶ there & putt hym in jupardy of his lif And to the supportacion & maynteynyng of all the said mysdemeanures cam the said Abbot & the substance of all his Couent with hym with othre mysruled persones to the nombre of LX ⁷ & above & there thrette & mysintreted our said Bayly and said he wold bring hym to his prison ⁸

⁴ This is an improved edition of an assertion made temp. Hen. 7 that 'the town with the bridges was made long before the abbey.' Ow. and Bl. i. 270.

⁵ Evidently a case of nepotism. See A. p. 179, n. 6. In Easter Term 1 Hen. 8 (1509) an order of the Star Chamber was made 'John Lye, servant of the abbot of

Salop, to be imprisoned if his master does not appear.' Lands. MS. 639; J. S. Burn, 'The Star Chamber,' p. 38.

⁶ See p. 186, n. 16.

⁷ At the Dissolution the house contained seventeen monks besides the abbot. Dugd. Monast. iii. 525.

⁸ In a placitum de quo Warranto

with many othre vnreasonable & inordinate sayenges & mysdemean-
ynges contrary to all good ordre & maner, And ouer this Alen mitton
household seruaunt⁹ vnto the same Abbot in forsible maner violently
Assaulted John Stowche Burges & mercer of the said Towne & hym
did greuously Beete & evill intrete to the gret fere & jupardy of his lif
to the breche of the kinges peax & contrary to the tenure of A pryve
Seale by the kinges grace to the said Abbot directed. All whiche
Jniuries rebukes thretinges betinges & mysentretinges We right
patiently suffre rathre than we wold offende the kinges lawes or dis-
please your said grace. And insomoche as all the said maters before
specified be determinable by the course of the comen lawe therunto
we beseke your grace to be remitted As we may haue the rather cause
to pray for the prosperouse contynue of your said grace. And for
that oure seuerell Seales vnto your grace be vnknownen¹⁰ In Witnesse
of the premisses We haue putto thies presentes oure comen Seale
the xijth day of Aprile in the first yere of the Raigne of oure most
soueraign & liege lord king henry the viijth.¹¹

Indorsed in modern hand.

Shrewesbury, Inhabitants
of v. Abbot of Shrewesbury.

L.¹

1510 Sheweth vnto youre grace youre daily orator Thabbot of Schrewes-
bury that Where a decre is made and geven in the starre Chaumber
by youre grace and the lordes of youre moost honorable Councell by
the advise of all the kynges Juges of Westmynster, and the said decre
was exemplified vnder the Brode Seale of owre moost souerayne lorde
kyng henry the viijth in Trinite Terme the First yere of his Raygne²
by Whiche decre It is ordered that youre said orator shulde possede
and vse the Fraunches landes and libertes beyng in varyaunce by
twyxt hym and his Covent on that oone partye, and the Baylis and

in 1292 (Hilary, 20 Ed. 1) 'abbas clamat infangenthef et furcas et alias libertates.' Ibid.

⁹ An example of the employment of members of gentle families as in the abbot of Malmesbury's case, p. 127. Similarly Robert Warcoppe the younger is household servant to Robert Warcoppe the elder (p. 114). Cf. also p. 238, n. 10.

¹⁰ Cf. *Tayllour v. Att Well*, A, p. 10.

¹¹ 1510. ¹ S.C.P. Hen. 7, No. 112.

² Proceedings were at this time fairly expeditious. The document E, praying an exemplification of the decree of July 8,

1508 (D), was sent up to Westminster some time after June 24, 1509. The exemplification arrived and was read publicly at Shrewesbury on July 21 following (L). The abbot's letter to the Chancellor (J) was written after this date. On July 24 W. Mitton, the bailiff, was served with a privy seal relating to the riot on July 21. The abbot's petition (L) was filed after March 1, 1510 (see p. 208, n. 49), and on October 22, 1510, certain persons were ordered to appear 'by fore the Kyng and his counsaill at Westminster' on November 12 (L).

Cominalty of the Towne of Schrewesbury on the other partie, and that the said Baylis and Cominalty schuldnot intermitte nother attempte any thyng Contrary to the said decree, Neuertheles after that the said decre was redde openly and schewed vnder the kynges brode Seale to the said bailis and Comenalte These thynges be do Contrary to the said decre as in articles here Folow.

The xxj daye of Julij the First yere of the Raygne of Kyng henry the viijth youre said orator the abbot of Schrewesbury Caused the said decre vnder the Kynges Seale patent to be pupplished and openly to be rede in his said fraunches William Mitton then bayle of Schrewesbury³ and Elis Thomys then Comen sergiaunt of the Towne of Schrewesbury and William dytheg kachepoll and many other then beyng present and after the pupplishyng of the said decre the same daye that the decre was rede openly at Schrewesbury Certen persons of the towne of Schrewesbury whose Names here after Folow Entred in to the said Fraunches and ther made proclamacion that no man schulde obbey the said decre Whiche youre said orator hade red and schewed that day vnder the Kynges Seale, and ouer that Charged the Inhabitauntes of the said Fraunches Whiche haue vsed and Continually do vse to plede and to be Impled at the said abbottes Courtes, That they scholde appere no more at the abbottes Courtes nother obbey his Officers of the seid Fraunches. Theis persons made proclamacion Contrary to the decre and the Kynges Seale.

Edward hosiar ⁴	Robert Coll ⁹	Thomas Cowper ¹⁴
Thomas knyght ⁵	Robert Wotton	Elis Thomys other-
Thomas kynaston ⁶	Dauid Ireland ¹⁰	wise ¹⁵ Called Elis
of Schrewesbury	Roger luter ¹¹	Jonys
Richerd mitton ⁷	Richerd Dicher ¹²	Richerd yemans pyn-
Edward knyght ⁸	Richerd Pope ¹³	ner ¹⁶

³ Elected to Parliament for Shrewsbury October 17, 1491; bailiff in 1504 and 1508; died, while bailiff, in 1512. Ow. and Bl. i. 530, 549.

⁴ Bailiff in 1496, 1506 and 1510. Ib. i. 530.

⁵ Bailiff in 1501, 1505, 1509, 1513 and 1517. Ib.

⁶ Bailiff in 1511.

⁷ See C, p. 185, n. 7, supra.

⁸ Will proved 1510. J. C. C. Smith, 'Index,' ii. 317.

⁹ See A, p. 180, n. 13, supra.

¹⁰ Bailiff in 1510, 1519, 1524 and 1528 (Ow. and Bl. i. 530). Will proved 1530. J. C. C. Smith, 'Index,' i. 295.

¹¹ Bailiff in 1514 and 1519 (Ow. and Bl.

i. 530). Will proved (Roger Luther) 1529. J. C. C. Smith, 'Index,' ii. 345.

¹² See C, p. 184, n. 2, supra.

¹³ Will proved 1512. J. C. C. Smith, 'Index,' ii. 422.

¹⁴ Town clerk of Shrewsbury. Ow. and Bl. (i. 278) give extracts of his expenses in 1506, for riding on business of the town to Ludlow, London and the abbot of Shrewsbury at Abbot's Eyton and Withington. He was still town clerk in 1522. Ib. 296.

¹⁵ On the use of 'alias' see 'Notes and Queries,' 7th ser. xii. 401, 450.

¹⁶ Pynner is not a trade name, but a surname (see pp. 185 and 206, n. 37, infra). The will of this person was proved in 1525 in the name of Richard Ye'mans (Ycomans)

Richard Worteley	John lister	Thomas trentam the
John Barton	Folke Coll	elder ²²
Thomas Raynoldes	William Janyns ¹⁹	Sir ²³ lyngam priest
Richerd purser ¹⁷	Nicolas Waryng ²⁰	and other moo
Richerd Bolkley	William Bayly ²¹	
Richerd lister ¹⁸	Edmund Weele	

Item the said xx^{tij} day of Julij ²⁴ Elis Thomys then Comen sergiaunt of the Towne of Schrewesbury and William dythyk kachepole of the same Towne Went into the said abbottes Fraunches in varyaunce after the said decre Was rede Wyth there billis and masses ²⁵ and there Tarried a gret part of that day and in nowyse Wold departe From thens when they were requyred, For they said they wolde vse and kepe possession of the Fraunches ther. And the xxiii^{ti} daye of Julij a privye Seale was delyuerd to William mitton then bayley of the said Towne and to the Cominalty of the same towne to kepe the peace agenst the said abbot and all his officers and seruauantes. And on the morow next after that they resseue the said previe Seale, Elis Thomys then beyng Comen sergiaunt of the said towne, William dythyg Cachepole and dakkyr kachepole of the said Towne and With them Rauff meghen and Edward parsys and other moo Cam into the said abbottes Fraunches and there attached John passeffant ²⁶ Cryer of the abbottes Courttes and Wolde haue draw hym owt of the said Fraunches and by Cause he woldnot go With them, They Cast hym

alias Pynner, of St. Julian, Shrewsbury. J. C. C. Smith, 'Index,' ii. 597.

¹⁷ Probably the same as Richard Pursell or Purcell, bailiff of Shrewsbury, 1514 and 1518 (Ow. and Bl. i. 530). Will proved 1524. J. C. C. Smith, 'Index,' ii. 429.

¹⁸ Bailiff of Shrewsbury 1506 (Ow. and Bl. i. 530), at Michaelmas of which year he rode to London 'about the bysynes by twixt the said town and the Abbott.' His expenses of 40s. were paid on May 5, 1507 (ib. 278, 279). He also made two journeys to London on the same business in May and June, 1507, his diary narrating which is preserved among the records of the Corporation. Hist. MSS. Comm. 15th Rep. Append. pt. x. p. 31. His will was proved in 1527 (J. C. C. Smith, 'Index,' ii. 348). R. L. was a country gentleman, owner of Rowton. Ow. and Bl. i. 277.

¹⁹ Bailiff of Shrewsbury 1513 and 1517. Ibid. 530.

²⁰ Bailiff of Shrewsbury 1495, 1499 and 1510, in which year he died (ib.) 'Of a very ancient family possessed of property in Shelton and the neighbour-

hood at least as early as the reign of Henry 3' (ib. 200; see also 278). Will proved 1510. J. C. C. Smith, 'Index,' ii. 556.

²¹ Bailiff of Shrewsbury 1523, 1527 and 1534, when he died. Ow. and Bl. i. 531.

²² Bailiff of Shrewsbury 1491, 1500, 1507 and 1511. Ib. 530.

²³ Blank in MS. Perhaps a member of the Shrewsbury family of Lingen. Ib. i. 295, 300, 340.

²⁴ 1509.

²⁵ A sign of jurisdiction; cf. p. 194, supra. An agreement, based upon the decree of the Star Chamber in this dispute, was entered into between the abbey and the town 1512, by which it was provided, inter alia, that 'the serjeants of the town shall bear their maces from the said mears [four boundary posts to be set up on the Stone bridge] unto Coleham under their girdles, and their weapons in their hands, executing none office there.' Ow. and Bl. i. 272.

²⁶ Qu. an ancestor of the Shrewsbury family spelt Passand in the seventeenth century. Ib. 408, n. 10.

downe and did bete hym and his wyffe also by Cause she wold a succurd hym and then toke his purse and his mony from hym to his gret hurte and theruppon an outerye²⁷ was made on them ther.

Item the xxvij^{ti} daye of Julij Elis Thomys then Comen sergiaunt by the Commaundment of Thomas knyght and Edward hosiar then depute baylis of the said towne²⁸ Charged the said abbottes Carpynders to Wurke no more the abbottes werkes²⁹ Within his said Fraunches and With thretyng wordes Caused the Carpynders to leve ther werke so that he Cannot haue his werke performed. And the said depute Bailis said hit was ther Commaundment.

Item the xxvij^{ti} daye of Julij Thomas withiford then baily and Thomas Knyght then depute Bayly, Roger Thornis,³⁰ Richerd mitton, Thomas Trentam the elder, Elis Thomys Comen sergiaunt and With them kachepolles and other moo, Cam into the said abbottes Fraunches and ther commaunded the Inhabitanttes vnder Certen peyne to remove ther Woode and Fuell. And the said Thomas Withifford and Thomas Knyght Commaunded and Caused William dithik kachepole to wache at the towne gate of schrewesbury and to take awaye Fro pore men soche Fleshe as they had bowyght in the said abbottes Fraunches and so he toke fro many pore men ther vitals to ther grete hurte, Wherwith many of the said towne and Cuntre abowte were gretly displeased. And the xxix^{ti} day of Julij the said abbot sent diuers of his seruantes to Thomas Whithifford then Bayly and to vnderstonde whether he wolde byde by soche thynges as wer do in the said abbottes Fraunches Contrary to the kynges wrytyng and his Seale, and he said he Cowde have as good a Seale for vj d. With other wordis for he said hit was sealed With Butter and that the abbot scholde haue no Fraunches as is decreed as long as his legges hynge to his bodye. And the xj daye of awgust, Thomas withifford then Bayly and Thomas knyght depute bayly Cam into the said abbottes Fraunches With ther sergiaunttes Ellis Thomys, Richerd Fisher and Edward goghe, Wyth them Thomas Cowper, Richerd Wortley, Richerd Bolkey, Folke spristow and dakyn kachepoll and Carried awaye in a Carte out of the said abbottes Fraunches Woode of thomas blake, Whiche woode laye upon a brocun place of a brige to the savegarde of them that passed that Waye, and that same daye a man Fill of the bryge Where the Wood laye be fore and hurte hym sore.

²⁷ I.e. the hue and cry; cp. p. 242, n. 9.

²⁸ The bailiffs were William Mitton and Thomas Wythyford.

²⁹ It is possible that the abbot was restoring the abbey church, the north porch

of which, engraved in Ow. and Bl. ii. 69, appears to belong to this period.

³⁰ Bailiff of Shrewsbury. 1497, 1505, 1509, 1515, 1521, 1525, and 1530. Ib. i. 530, 531. See also p. 208, n. 49, *infra*.

Item the xiiijth daye of Awgust Thomas Withiford then Bayly, Richerd dicher, Edward Knyght, Robert Coll, Thomas Cowper, William dithik kachepolle, William Janyns, William folke, Richerd wurtley, Thomas wryght, Folke Coll, John lister and richerd Fysher then sergiant and dyuerse moo made a Sawte on Thomas powes and wolde haue take hym With stroung hande owt of his schoppe Within the said abbottes Fraunches into there prison, and that tyme Thomas withiford bade a sergiaunt of the said towne to thrust a bill into the said Thomas and to brynge hym owt of the Fraunches quyck or dede, and he wold bere hym out in so doying nothyng regardyng the privie Seale Wherin he is bownde to kepe the pease. And the xxix daye of awgust a seruant of Thomas Kynaston of Shrewesbury made afraye on the said abbottes horsse keper at the abbey gate.

Item the iiijth daye of october the yere before said, William mitton and Thomas Withiford then baylis³¹ of the towne of schrewesbury and Ellis Thomys, Edward goghe and richerd Fisher then sergiaunttes of the said towne and With them associate richerd Wurtley, George spristow, Edward Bent,³² William Barbur, William dithik and other moo entered into the said abbottes Fraunches and toke awaye Fro the abbottes tenaunttes then, That is to saye, fro Thomas blake Corser,³³ richerd peere, John barbur, hugh hill, John Charnet agenst ther wille Certen stresses,³⁴ be Cause the said tenaunttes willnot appere at the towne Courte³⁵ where the³⁶ neuer vsed to appere, Notwystondyng the baylis of the said Towne and ther successours haue be Commaunded by diuerse Jniuncions the Contrary, and by Force of the said Jniuncions haue delyuerd agayne diuerse stresses that hathe be taken fro the said abbottes tenaunttes in tyme passid. And the vjth daye of october, Thomas knyght, Thomas withiford, William mitton, Thomas Trentam the elder, Edward hosier, richerd dicher, robert Coll, Daud Ireland, roger luter, richerd yemans pynner,³⁷ richerd higyns, dauid Wotton and Gryffith lyngam³⁸ Enterd into the said

³¹ See E, p. 190, n. 5, *supra*.

³² Bailiff of Shrewsbury 1520 and 1526. Ow. and Bl. i. 530.

³³ Horse dealer; cp. Fitzh. 'Husb.' § 120. 'A corser is he that byeth all rydden horses and selleth them agayne.' J. A. H. Murray, 'Eng. Dict.' s.v.

³⁴ I.e. distresses.

³⁵ Coke, on the Statute of Marlborough, c. 10, says 'distress can be taken for the amerciaments for default of suit.' The Act refers to the Turns of Sheriffs, on which point Coke notes, 'This tourne of the sheriff is curia vicecomitis franci plegii, and therefore this Act extendeth to all leets and

views of frank pledge of all other lords and persons' (2 Inst. 120, 121). The court was the court leet, over which the bailiffs presided, as at Norwich. See W. Hudson, 'Leet Jurisdiction in Norwich' (Selden Soc., 1892), p. xxvj.

³⁶ Sic; for 'they.'

³⁷ Here three names appear as in the modern usage, of which there are occasional examples even in early times. See p. 98, n. 1, p. 203, n. 16, and p. 238, n. 9.

³⁸ Perhaps son of John Lingayne of Lingeyn, Herefordshire. Griffith commanded a cavalry contingent from Shrewsbury against Scotland in 1522. In 1525 he

abbottes Fraunches and the said Thomas withiford and William mitton that were baylis the yere before delyuerd possession of the said abbottes Fraunches Contrary to the said decree to Thomas knyght then new Chosen bayly³⁹ and other officers of the said towne that then were new Chosen and theruppon Thomas then⁴⁰ knyght bayly Commaunded gryffith lingam his sergiaunt⁴¹ to kepe possession and to rest and vse his office and his masse thorow all the said Fraunches in varriaunce and forthe⁴² then they made⁴³ Clayme before and the said gryffith seid he wold do that yeff he did not more then that and the morow next after sent davies daye last passed,⁴⁴ roger thornys and Thomas knyght then New baylis of the said towne, dauith wutton, Griffith lyngam & robert bruerton sergiaunttes Entered into the said abbottes Fraunches and then the said roger Thornis said vnto robert hill bayly of the said abbottes Fraunches a foresaid that he and the Fore-said persons With hym Wold kepe possession of the said Fraunches and yff the said bayly of the abbottes Wolde vse his office there as he hathe vsed before, that he and the said abbot schulde repent hit.

*Indorsed.*⁴⁵

Witnesse of the proclamacion as is in the First article—Alyn mitton, John Coplond John Charnet John Friser and many other.

Witnesse of the owt Crye Conteynid in the Seconde article—sir roger buttler John Charnet, hugh hill, William pypar and many other.

Witnesse on the Sawte⁴⁶ and Fray made on Thomas powes in the vth article—John Charnet, Thomas thorpe, Thrustan Corser,⁴⁷ dauith hill, John barbur, richerd taylor, richerde harseneppe.

Witnesse of the stresses taken and Comyng of the new bayly downe in the vj^{te} article—robert hill, Gryffith Bromlow, Thomas Tailor, Thruston scot, richerd harseneppe, richerd oseley⁴⁸ and diuers other.

was sub-bailiff of the town. In 1547 he again led a body of cavalry to reinforce the earl of Warwick (John Dudley) on the Scotch borders. Ow. and Bl. i. 301, 340.

³⁹ See E, p. 190, n. 6, *supra*.

⁴⁰ This word is here interlined, evidently by mistake, instead of before 'bayly.'

⁴¹ Apparently newly appointed by the incoming bailiff.

⁴² Apparently for 'further.'

⁴³ 'ther,' which followed, is struck through.

⁴⁴ St. David's Day was March 1. This

gives the date of the document as of the year 1510. Cf. p. 202, n. 2, *supra*.

⁴⁵ These depositions are on two whole skins and a portion of a skin stitched together. The first indorsement is in the hand of the same clerk and on the second skin. The second indorsement is on the first skin and is by the clerk of the Court.

⁴⁶ Assault.

⁴⁷ Here apparently a surname.

⁴⁸ The name of 'a considerable family in this town.' Ow. and Bl. i. 272, n.

Thabbot of Salop contra the bailyffes.

The xxij day of octobre anno primo⁴⁹ henrici octau.

It is Decreed that Roger Thomas balyf Thomas Withiford Richard Fisher Daud Watten Datkyn Corde⁵⁰ William Deithwike Richard bolkeley Thomas knyght baylyf Robert Wotton Elis Thomas otherwise called Elis Jones Gryffith lyngham Richard Yemans pynner Richard Wurtley by⁵¹ callid by two⁵² seuerall preue sealles to appere personally by fore the Kyng and his counsaill at Westminster the morowe after Saynt Martine next comyng⁵³ euery of theym vpon payne of ther allegeaunces⁵⁴ to aunswer to the complaynt vpon them made, aswell for the within wretten greves and mysdemeanours as for the disobeyng of a decre Judgement and sentence gevyn by the kyng our soueraign lord and his counsaill and for lykewise disobeyng contempttiously of other preue sealles latly to them directed as it ys certified by william Bramall of shreuysbury vpon the boke, by fore my lord Chaunceler in the Sterre Chambre. Johannes Mewtis.⁵⁵

⁴⁹ This indorsement must be a mistake for 'secundo.' The document contains a continuous history from 'the xxj daye of July the first yere of the Raygne of kyng henry the viijth,' i.e. July 21, 1509, to 'the morowe next after sent daries day,' i.e. March 1, 1510. This last date would also be 'anno primo,' but the regnal year ended on April 21, and therefore October 22 must be 'anno secundo.' The indorsement, it is true, styles (by mistake for Thornes) Roger 'Thomas,' bailiff, and also Thomas Knyght. As a matter of fact, they had ceased to be so about seventeen days (cf. p. 190, n. 5, *supra*), a circumstance of which the new clerk of the Council may be inferred not to have had cognisance. See n. 55. The two were burgesses for the town in Parliament in 1509-10. Hist. MSS. Commission, 15th Rep., Append., pt. x. p. 31.

⁵⁰ Writing indistinct: parchment injured.

⁵¹ 'be.'

⁵² Apparently, as stated below, one to answer for their invasion of the abbot's franchises, the other to answer for contempt.

⁵³ November 12, 1510.

⁵⁴ 'Sub pœna ligeantiae.' Hudson, in his 'Treatise of the Court of Star Chamber,' p. 147, writes as though in his time this were only issued in the case of default of appearance by peers, an attachment being awarded, without further delay, against ordinary subjects.

⁵⁵ Otherwise Mewtys, Mewtes, or Meautis: first appears in 1500 as clerk of the signet to Henry 7 (J. Gairdner, 'Letters and Papers

of Rich. 3 and Henry 7' [1863], ii. 90). Afterwards promoted to be Henry 7's 'secretary for the French tongue' (ib. i. 289, 300, ii. 367; S. P. Dom. Hen. 8, i. 1420, ii. p. 875), an ecclesiastic (ib. 14), pensioned by Henry 7 (ib. ii. p. 875), retained by Henry 8 and appointed clerk of the Council during pleasure, Oct. 19, 1509 (ib. i. 588), nominated a justice for gaol delivery in London and Surrey, March 21, 1511 (ib. 1547, 1548); displaced from the clerkship of the Council, Oct. 21, 1512 (ib. 3478); on the commission of peace for Middlesex, Nov. 28, 1512 (ib. 3552) and Jan. 21, 1514 (ib. 4663); received a licence to import 400 tuns of Gascon wine and 200 tons of Toulouse woad, July 7, 1514 (ib. 5233), and an annuity of 40 marks (26l. 13s. 4d.) Sept. 27, 1514 (ib. 5455) and a second annuity of the same sum, Sept. 4, 1515 (ibid. ii. 878). To this was added in 1516 an annuity of 40l. for life (ib. p. 874), and another of 26l. 13s. 4d. during pleasure (ib. 875). In the riot of London apprentices, called Evil May Day, 1517, his house in the city was attacked and sacked, and he escaped death by hiding in the belfry of a neighbouring church (ib. 3204). During the summer of the same year he was employed in negotiations in Flanders (ib. 3518, 3546, 3647). On Aug. 17, 1518, he received a licence to import 400 tuns of Gascon wine (ib. 4389); he was again nominated on the commission of the peace for Middlesex on Sept. 16 following (ib. 4435); accompanied the earl of Worcester's mission to France in November 1518 (ib. 4594). It is probable that he removed to Kensington after

GLOUCESTRE, MAYOR &c. OF, PETITION OF.¹

A. To the moost Reuerend fader in god Willyam²
archebishope of Canterbury and other of the
lordis of the kynges moost honorable Councell
in the Sterr Chambre

1504 Humbly shewith vn to your good lordshippis your supplicauntes the
Maire & Burges of the towne of Gloucestre that Where in the parlia-
ment holden at Westminster in the xxvth day of Januarie in the xixth
yere of the reigne of our souereign lorde kyng henri the vijth,³ it was
inacted that whate so euer person or persons of whate estate degree
or condicion he or they be that from thensfourth take any imposicion
of eny of the kynges liege people for trowe boote or eny other vessell
for eny goodes or merchaundises caried or conueyed in & vppon the
Reuer and Water of Seuerne or lett vex or interupte eny bootes trowes
or other vesselles so passing by the seid Reuer & Water for eny suche
imposicon or otherwise agenste the kynges lawes that euery suche
person or persons so doing & offendyng shall forefaite to the kyng our
souereigne lorde for euery suche offence xx li. & for euery suche
somme or somes so forefayted the party greued & all other persons
that will sue for the saim forefaiture shall haue & sue an accion
populer⁴ of dette aswell to & for the vse of our souereign lorde the
kyng as to the vse of hym that shall so sue for it in hys owne name
And that our Souereign lorde the kyng have too partes of the same
somme so forefayted & the parte that so shall sue for the same haue
the thred parte therof & the party defendaunt in eny suche accion
shall not be receyued to wage his lawe & allso be outed of all dela-
tories in the same accon as protecon⁵ Essoin⁶ & other & if it

the destruction of his house in the city,
for on July 8, 1519, he was nominated a
commissioner to make search for suspected
persons in Kensington, Hammersmith,
Knightsbridge and Chelsea (ib. iii. 365),
while for purposes of business he 'tarried
within the Friars Austins' (ib. 952), to
which body he possibly belonged. He died
probably in 1522, in which year his will
was proved, he being then described as
of 'Kensyngton etc., Middlesex.' J. C. C.
Smith, 'Index,' ii. 363.

¹ S.C.P. Hen. 7, No. 4. The documents
of this case have been separated in the
sorting. F is numbered 42, the rest of the
documents 4.

² William Warham. See p. 227, n. 2.

³ 1504.

⁴ 'The difference between an Action upon
the Statute and an Action Popular is where
the Statute gives the suit or Action to the
party grieved, or otherwise to one person
certain, that is called Action upon the
Statute. But where authority is given by
the Statute to everyone that will so sue,
that is termed Action Popular.' T. Blount,
'Law Dict.' (1670), s.v. Action.

⁵ Protection is 'an exemption or immunity
given by the king to a person against suits
in law or other vexations upon reasonable
cause him thereto moving, which is a
branch of his prerogative.' Ib., s.v. See
Fitzh., Nat. Br., fo. 28.

⁶ Excuse for non-appearance. — 'The

fortune the parties in eny suche accion to defend or pleed to an issue for eny offence doone or comytted contrarie to the premysses triable in the Cite of Worcester or the liberties of the same then the same issue to be tried by xij men within the counte of Worcester not dwellyng nor hauyng eny landes within the same Cite nee in the subarbes of the same & if the parties aforeseid in eny suche accion defend or plede to an issue for eny offence doone or comytted contrarie to the premysses triable in the schire of the towne of Gloucestre or in the counte of Gloucestre the same issue to be tried by xij men of & in the Counte of Gloucestre therto adioynyng not hauyng eny landes nee dwellyng within the same schire of the towne of Gloucestre as in the seid acte more pleyntyly it doth appere, And it is prouyded by the same acte that if eny person or persons spirituall or temporall or body corporate come before the lordes of the kynges honorable Councell in the starre Chambre at Westminster at eny tyme after the seid xxvth day of Januarie before the feiste of thascencion of our lorde that shalbe in the yere of our lorde god a M^{ll} fyve hundred and fyve⁷ & there make eny sufficient proue & lawfull title of there owne offere or by other meyns before the same feiste to haue eny maner of dute or impposicion of or for eny maner of boote trowe or other vessell aforeseid or for eny other merchaundis or goodes in eny of the same Caried & conueyed in & vppon the seid Reuer & Water of Seuerne & the same proue & title by the seid Councell admitted & decreed before the same feist to be good & avaylable to the partie or parties that shulde so sue for the same that then from thensfourth after suche proue & title shewed & so by seid Councell admitted & by them befor the seid feiste decreed to be good those persons hauyng suche lawfull title may & shall haue from the tyme of that decree made all maner suche duetes of euery of the kynges liege people so Carieng or conveying eny boote trowe or vessell in & vppon the seid water of Seuerne accordyng to there title & right so proued & decreed after the maner & fourme of the same title & decree the said Acte or eny thyng therin conteigned in eny wise not withstandyng And it is further prouyded by the seid Acte that the same Acte or eny thyng in the same conteigned or specified in eny wise extend not nor be preiudiciall or hurtfull to eny person or persons hauyng eny landis or medues adioynyng to the seid streme or water of Seuerne to take of euery person or persons going vppon his or there seid landes or medues and halyng or drawyng eny

causes that serve to essoin any man summoned are divers, yet drawn to five heads, whereof the first is *ultra mare*; the second, *de terra sancta*; the third, *de malo veni-*

endi, which is also called the common essoin; the fourth is *de malo lecti*; the fifth, *de servitio Regis*.⁷ Blount, s.v.

⁷ 1 May, 1505.

suche trowe boote or vessell reasonable recompence & satisfaccion for suche hurtes and offences as he or they hauyng suche landes or medues adioynyng to the same streme or water shall sustegn by reason of eny suche going or drawyng of eny suche trow boote or vessell as in the seid estatued more pleyntyly it doth appere. The foreseid maire & burges seyen that the seid Towne of Gloucestre is an auncient borough & but littell grounde in quantite⁸ and oute of tyme of mynde hath ben a Towne corporate firste by name of Burges of the Towne of Gloucestre⁹ & after that by the name of maire & Burges of the towne of Gloucestre¹⁰ & that the Burges of the same towne before they were incorporate by the name of mare & Burges of the towne of Gloucestre and the maire & Burges of the same towne seying¹¹ the seid incorporacion haue by the same tyme holden & yet haue & holdeth the seid towne with thappurtenaunce of the Kyng our Souereign lorde & of his moost noble proienitours in Fee ferme oute of tyme of mynde payng & yeldyng for the same & other there liberties at the kynges Eschequer lxxv li.¹² yerely ouer & aboue diuers other greate charges by them yerely borun & susteigned by reason of the seid towne all which Fee ferme hath be of olde tyme leueed & gadared in effecte of Costumes & bottes¹³ in the same towne and they sey that the seid Reuer & Water of Seuerne passith & hath Coursse through the liberties of the seid towne ouer which Reuer & streme there is sett a greet Brigge made of Free ston arched & enbowed¹⁴ & belonging to the seid maire & Burges, which all weyes withoute tyme of mynde hath be made & yerely is repaired & maynteyned at there expens & greate costes in so moche that the reparacion of the seid Brigge hath coste the seid towne within this iij yeres laste passed ccc markes & aboue by the whiche

⁸ Leland, the antiquary, who visited it between 1536 and 1542, says:—'The towne of Gloucester is antient, well builded of Tymbre & large, & strongly defended with Walles, where it is not well fortified with the deepe Streame of Severne Water. In the Wall be 4 Gates by East, West, North, & South.'—*'Itinerary,'* ed. T. Hearne (2nd ed., 1744), iv. ii. 170 b. The lengths of the streets leading to and bearing the names of these gates are given by S. Rudder, *'Hist. of Gloucestershire'* (1779), p. 85:—West Gate Street as 938 yards long, East Gate Street as 294 yards long, Upper North Gate Street as 180 yards long, and South Gate Street as 391 yards long.

⁹ So styled in the Charter of King John of April 21, 1200. See C. Gross, *Gild Merchant*, ii. 373. The town was governed

by bailiffs from the time of Edward 1 to 1483.

¹⁰ In 1483 Richard 3 granted the town this incorporation. S. Rudder, p. 115.

¹¹ For 'since.'

¹² This was by the Charter of John. See C. Gross, l.s.c.

¹³ From 'bote' or 'boot' with many senses, but especially used for 'repair,' and contributions towards repairs. Bridgebote or Briggbote was the expense of keeping bridges in repair. See J. A. H. Murray, *'Eng. Dict.'* s.v. Boot.

¹⁴ 'The Bridge that is on the cheife Arme of Severne, that runneth hard by the Towne, is of 7 great Arches of Stone.' J. Leland, *'Itin.'* l.s.c. By 'enbowed' (embowed) is meant having recesses for protection of foot passengers from passing vehicles, &c. See J. A. H. Murray, s.v. Embowed.

Brigge all the kynges subiectes haue there passage betwext Englonde & Walis with there goodes & catalles & all other marchaundis & by no other Brigge from thens to seynt michelles mounte which is aboue cc myles¹⁵ and also there is & by the same tyme hath been within the seid towne a key or wharffe made of Free stone adioynnyng to the same Reuer for the escharging & discharging of all goodes & marchaundis there aswell for forenyes as for the seid Burges which key or wharffe was in like wyse made & is maynteigned & repayred by the seid mayre & Burges to there greet charge, And ouer that they seyen that euery of the kynges liege people conueyeng ther trowes bootes & other vesselles laden or charged with goodes & marchaundis through the seid liberties of the seid towne & vnder the seid Brigge vppon the seid Reuer haue there passage & going at there pleasure vppon the comen soyle & landes of the said maire & Burges within the liberties of the seid towne and at there pleasure takyth there ancre holde & tyage in the seid streame & Reuer there free holde ioynnyng to the same and with lynes & cordes drawith there seid trowes bootes & vesselles so charged with the seid marchaundis vppon the soyle of the seid Towne adioynnyng to the same streame & with the said cordes & with hookes & sparris of iron drawith hookyth tayeth & puttith at the seid Brigge & greetly Fretith lowsith & ofte tymes brekyth & castyth downe the stones of the same wherby it is dayly impeyred which hath so be vsed there withoute tyme of mynde, & they sey that they in concideracion of the premyssis haue taken & of tyme wherof no man hath mynde to the contrarie haue vsed to take of & for euery boot trowe or vessell that comyth to the seid towne or passith throwe the same ij d. & of & for eny ton or ton tyght of marchaundis conteigned in the same vesselles passing through the seid Brigge or putt on lande at the seid key or wharffe vj d. towarde the payment of there Fee ferme & other the seid charges of which custome or sommes of money they haue be peasibly & lawfully possessed by all the seid tyme. And the seid maire & Burges seyen that they haue not in certente towerd there seid Fee ferme & other charges in rentes & other certentes aboue ix li. yerely & in aduoydnyng of troble & expens that hereafter may ensue betwene the seid maire & Burges & other persons which shall haue stufte & marchaundis to be conueyed by or vppon the seid streame vnder the seid Brigge or putt on lande in fourme as is aforeseid by colour of the seid acte and for lacke of reasonable interpretacon or construccion therof the seid maire & Burges in

¹⁵ Viâ Bristol, Exeter, and Camborne, Helston, 223 $\frac{3}{4}$ miles.
220 $\frac{3}{4}$ miles; viâ Bristol, Exeter, Truro, and

¹⁶ Blank of about three inches in MS.

there moost humble wyse besechen your good lordshippes to afferme decree & auctorise there seid takyng & hauyng of the seid ij d. for euery suche boote trowe or vessell & of the seid vj d. for euery ton or ton tyght of stuffe or marchaundis so brought or to be conueyed & brought vnder the seid Brugge or discharged or put on lande at the seid key or wharffe & that to remayne & abide of recorde as your decree according as in the seid Acte & prouyso ys conteigned And that ¹⁶ may be receyued & admitted Attourneyes ioyntly & seuerally to pursue to your good lordshippes for the seid decree to be hadde & geuen in the premysses accordyng to right & for the supportacon of the seid towne which if the seid Custume shulde be withdrawn shulde cause the seid towne which is greatly decayed ¹⁷ to fall in desolacion & shuld not be able to content & pay the seid fee Ferme aswell to the greate losse of the kynges Highnesses ¹⁸ as to the greet hurte & damage of the seid towne and they shall prey dayly to God for the preseruacion of your good lordshipz.

B. C. *Two copies of a Petition of the Baillys & Citesyns of Worcestre in almost identical words, mutatis mutandis, after the recitals as in A continue*

The foreseid Baillys & Citesyns (seyen that the)¹ seid Cite of Worcestour is & owt of tyme of mynd hath be an auncient Cite & Burgh

¹⁷ Charter of Inspecimus of Edward 4, dated April 6, 1473, recites that a petition has been presented to the King in Parliament as follows: 'The bailiff and stewards of the town of Gloucester shew that the said town is "febly paved and full perilous and iepardous" for passengers, in so much that many persons, both of high degree and low, have been seriously injured thereby, and the bailiffs and stewards have no lands, tenements, or rents in common wherewith to maintain the same.' The petition asks that householders may be compelled to pave the streets in front of their property. Petition assented to and an exemplification granted at request of bailiffs and stewards (Records of Corporation of Gloucester, ed. W. H. Stevenson, 'Glouc.' 1893, p. 15). 'About 1487 there were 300 houses in it fallen to decay, and an Act of Parliament was made, 27 Hen. 8 (1536), to enforce the rebuilding of part of it' (S. Rudder, p. 83). According to the preamble of this statute, intituled 'An Acte for reedyfyng of dyvers Townes in the Realme,' Gloucester and the other towns named, 'of long tyme have bene in

greate ruine and decaye, and specially in the pryncipalle and chief stretes there beyng, in the whiche chief stretes in tymes passid have bene beautyfull dwellyng Howses there well inhabited whyche at thys daye moche parte therof is desolate and void groundys, withe pittys sellers and vaultes lying open and uncoveryd very peryllous for people to go by in the nyght without jeopardy of lyfe, whyche decayes are to the great impoverysshyng and hynderance of the same Townys' (27 Hen. 8, c. 1). Leland, who saw the town about this very time, says:—'When the key was by St. Oswaldes, there was divers pretty Streetes that now be cleane decayed, as St. Bride's street & Sylver Girdle Street. The truth is that these Streets stood not most holesomely and were subject to the raging Floodes of Severne, therefore Men desired more to inhabit in the higher Places of the Towne.' 'Itin.' l.s.c.

¹⁸ In 1397 the contribution of Gloucester to a forced loan to Richard 2 was sixth in value, ranking with York and Salisbury, and amounting to £200.

(and) ¹ is but a litill grounde in quantite, a Cite corporate by the name of Baillys & Citesyns of the seid Cite ² (and that the seyd) ¹ Baillys & Citesyns holden & they & their predecessours haue holden the same Cite of the kyng our soueraign lorde & of his most noble progenitours in fee ferme paying out of tyme of mynde ³ seid (fee fe) ¹ rme & other their liberties at the kynges Eschequer xxx ⁴ li yerely ouer & aboue viij li. of anvitie yerely payd to the Bishop of Worcetour & his predecessours for such title & interest as the seid (predecessours of the seid) ¹ Bishop of olde tyme hadde within the same Cite (&) ¹ Burgh besides other charges and they sey that the seid Ryuer & Water of Seuarn passith & hath cours trough the liberties of the (seid Cite ouer which reuer and) ¹ streme is ⁵ sett a grete Brigge ⁶ made of free stone arched & inbowed & belongyng to the seid Baillis & Citesyns which alweis without tyme of mynde hat byn made & yerely (is repared and maynteyned) ¹ at their expences & grete Costes in so moch that the reparacion of the seid Brugge ⁶ hath cost the seid Cite within this vij years last past v c markes ⁷ & aboue by the which Brugge ⁸ the (kynges subiectes haue) ¹ their passage betwene Englonde & Walys with theirr godes or catelles and also ther is & by all the same tyme hath be within the seid Cite a key or wharffe &c.⁹

* * * * *

they . . . haue vsyd to take of and for euery tonne or tonnetyght of merchaundises conteyned in the same vessellis passyng trough the seyd burge or putt on land at the seyd key or wharfe iiij ¹⁰ to ward the payment of ther seyd fee ferme and other the seid charges of which custome or summes of money they haue be peassably & lawfully possessyd by all the seid tyme and the (seid Baillys & Citesyns) ¹ sey that they haue not in certente towards their seid fee ferme & other charges in rentes & other certenties aboue v li. yerely and in auoydyng of troubles & expences that hereafter may (ensue betwene the seid) ¹ baillys & Citesyns & other personys which shall haue stuff & marchaundez to be conveyed by & vpon the seid streme vnder the seid

¹ MS. of B torn; supplied from C.

² By a charter of 1261, Henry 3 granted to the citizens of Worcester that two bailiffs, two aldermen, two chamberlains, and forty-eight assistants should have the government of the town, &c. H. A. Merewether and A. J. Stephens, 'Hist. of Boroughs' (1835), i. 468. See also Nash, 'Hist. of Worcestershire' (1782), ii., Append. cxl.; T. Madox, 'Firma Burgi' (1726), p. 272; V. Green, 'Hist. of Worcester' (1796), ii. 33.

³ C reads 'in fee ferme oute of tyme of mynde paying and yeldyng for the same and other,' &c.

⁴ There appears to have been an erasure of a numeral letter after xxx.

⁵ Following A.

⁶ A blank space of about five inches follows.

⁷ 337l. 6s. 8d.

⁸ 'Burge' in C.

⁹ Following A down to next paragraph of this text.

¹⁰ Sic.

brugge¹⁰ or put on lande in forme as is afore seid by colore of the (seid acte and for lacke)¹ of reasonable interpretacion or construccion therof The seid bailles & Citesyns in their most humble wise besechen your gode lordshippis to afferme decree & autorise their seid takyng and (hauyng of the seid iiij)¹⁰ f¹ or euery tonne or tonnetight of stuff or marchaundez so brought or to be conveyed & brought vnder the seid brugge⁸ or discharged or put on lande at the seid key or wharffe and that to (remayne and abide of recorde)¹ as your decree accordyng as in the seid acte & prouiso is conteyned and that Rowland Burgis William Porter¹¹ may be receuyd & admytted attorneys (ioyntly & seuerally to pursue to your)¹ gode lordshippes for the seid decre to be hadde & yevyn in the premisses accordyng to right & for the suppertacion of the seid Cite which if the seid custome shulde be withdrawen (shuld cause the seyd Cite to fall)¹² in decay & shuld not be able to content & paye the seid fee ferme as well to the grete losse of the kynges highnes as to the grete hurt & damage of the seid Cite. (And they shall pray to)¹² God for the preseruacion of your gode Lordshippes.

D.

Henricus dei gratia Rex Anglie & Francie & Dominus Hibernie dilecto sibi in Christo Ricardo Abbati monasterii beate Marie de Bordisley¹ necnon Dilectis sibi Gilberto Talbot² militi Thome Lygon³

¹¹ The will of William Porter, gentleman, of Blak freres, Worcester, was proved in 1537. J. C. C. Smith, Index, ii. 423.

¹² The space here is not enough for this document to have followed the wording of A. The text here is conjectural, based upon A.

¹ A Cistercian abbey in Worcestershire founded by the Empress Maud in 1136. Dugdale, 'Monast.' v. 407, mentions Richard as abbot in 1511, but the surname is unknown.

² Sir Gilbert Talbot, K.G., was third son of John Talbot, second earl of Shrewsbury (d. 1460), by Elizabeth, daughter of James Butler, fourth earl of Ormonde. He first comes into prominence at the battle of Bosworth, on the eve of which he deserted at the head of more than 500 men to the camp of Henry, earl of Richmond. 'Polyd. Vergil' (Camd. Soc. 1844), p. 218. He commanded the right wing of the vanguard at the battle on the following day (Aug. 22, 1485, id. p. 223). He was knighted by Henry on the field (W. C. Metcalfe 'Book of Knights,' p. 10). He owned land in Shropshire (see Inq. p. m. Hen. 7, i. 720, 924), for which county he was ap-

pointed sheriff on September 12 following, doubtless to dispossess Richard 3's nominee, and was pricked sheriff for the year on Nov. 13, 1485 (W. Campbell, 'Mat.' i. 157, 548, 583), receiving an allowance of 100*l.* from the Exchequer towards the expenses of the office (ib. 157) and a further 'reward' of 100*l.* at Easter, 1486 (ib. 407). On July 17 following he received a large grant of lands in Worcestershire, comprising the two manors of Grafton and Upton Waryn, with the advowsons and lands &c. in Hainbury, Bromysgrove, Kingisnorton, Kedermyster, Keimeswyk, and Esbury forfeited by the attainder of Humfrey Stafford (ib. 506). For his valour at the battle of Stoke on June 9, 1487, at which Lambert Simnel was taken and John de la Pole, earl of Lincoln, the Yorkist pretender, was defeated and slain, he was made a knight banneret (W. C. Metcalfe, p. 13). Appointed, on December 23, 1488, to take musters of archers intended for the expedition against France for the relief of Brittany (Campb. 'Mat.' ii. 386), he commanded part of the English army which raised the siege of Dixmude in Flanders on June 13, 1489 ('Chron. of Calais' [Camd.

Gentilman Rogero Bednam⁴ Gentilman & Johanni Breynton⁵ salutem.
Ex parte dilectorum subditorum nostrorum Balliuorum & Ciuium

Soc. 1846], p. 2). By the will of his uncle, Sir Humfrey Talbot, dated February 18, 1492, he received the 'rule of the lordship of Glossop' for life (will proved November 11, 1493; Sir H. Nicolas, 'Test. Vet.' ii. 409, 410). He was much at court, being a privy councillor and Knight for the Body (J. Gairdner, 'Letters and Papers,' Rich. 3 and Hen. 7, ii. 180, 181). He took part in the festivities on the creation of prince Henry duke of York in 1494, and at the reception of Katharine of Aragon in 1501 (ib. i. 403, 410, and ii. 291); he was nominated for the Garter by Henry 7 on December 20, 1495 (ib. ii. 60). In 1504 he was dispatched ambassador to pope Julius 2 with the abbot of Glastonbury and Robert Sherborne, afterwards bishop of Chichester, as his colleagues. C. Bernard Andreas (ed. J. Gairdner [1858], p. 84), in his account of which visit to Rome the historian describes him as 'strenuissimus miles.' His military distinction recommended him to this Pope, who showed him exceptional honour (ib.). He was nominated 'Deputy of Calais' on September 25, 1509, S. P. Dom. Hen. 8, i. 528, and, according to the 'Chronicle of Calais' (p. xxxviii), was 'constitutus' at Calais on September 26. But this appointment, which took place five months after the accession of Henry 8, must have been a confirmation only, for he is styled 'Deputy of Calais' in a letter of the Flemish ambassadors to Margaret of Savoy on December 7, 1508, and in an official document of April, 1509 (S. P. Dom. Hen. 8, i. 14). He is 'Lieutenant' of Calais in an official protection to a Venetian merchant dated July 27, 1509 (ib. 346). After the appointment of September 25 he becomes 'Deputy' of Calais once more (ib. 560, October 10, 1509). He was now resident at Calais (ib. 1280), and was repeatedly a commissioner for receiving instalments of the sum of 745,000 crowns in gold due from Charles 8 of France for the English expenses in relief of Brittany under the Treaty of Etaples of November 3, 1492 (ib. 626, November 5, 1509, Rym. 'Fœd.' xiii. 298, April 25, 1511). Henry 7 made him a trustee of his will, dated March 31, 1509 (Nicolas, 'Test. Vet.' i. 30). From Henry 8 he received on February 4, 1513, a grant in tail made of the manor of Byrfield Abbot alias Birkfeld, Berks, forfeited by the attainder of John de la Pole, earl of Lincoln (S. P. Dom. Hen. 8, i. 3705). In this year he was involved in trouble by the piratical exploit of one of his three sons, who captured at sea some Spanish merchants and their goods

(Sir G. Talbot to Wolsey, March 20, 1513, ib. 3813). His health was now breaking (ib. 3948, 4021). His son, Sir Gilbert Talbot the younger, held a command in the king's campaign in France in the summer of 1513 (ib. 4253), though he had himself intended to do so (ib. 4021). No doubt as an arrangement for his retirement the office of Deputy was conferred upon Sir Richard Wingfield and himself in survivorship on August 6, 1513 (ib. 4392). During these years 1509-13 he was constantly on the commission of the peace for Worcestershire, Staffordshire, Warwickshire, Herefordshire, Gloucestershire, and Salop (ib. passim). He is styled 'late Lieutenant and late Deputy of Calais' in official documents of March 20 (ib. ii. 254) and June 15, 1515 (ib. 586). He died in 1517, the livery of lands to his eldest son, Sir Gilbert Talbot, issuing on November 9 of that year (ib. 3784). The ruins of his house at Grafton, Worcestershire, which was burnt down in 1710, are described by Nash (i. 158). His portrait and the portraits of his two wives, (1) Elizabeth, daughter of Ralph, seventh lord Greystock, and widow of Thomas le Scrope, Lord Scrope, and (2) Awdry, daughter of Sir John Cotton, co. Cambridge, were painted in glass on the chapel window of Grafton, Worcestershire, together with those of his three sons, Gilbert, Humfrey, and John (Nash, i. 164; G. E. C., 'Complete Peerage' [1896], vii. 91). His first two sons, who were by his first wife, died without issue. The youngest was by his second wife, and was ancestor of the present earl of Shrewsbury. Burke's 'Peerage.'

³ Thomas Lygon, Lygen, or Ligon, son and heir of William Lygon, of Madresfield, Worcestershire, by Elizabeth, daughter of — Giffard, and widow of — Alkok (Nash, ii. 118). A Yorkist, appointed by Edward 4, on August 12, 1461, to raise troops 'against the rebels' (Pat. Rolls, 1 Ed. 4, p. 98). He was returned knight of the shire for Worcester to the Parliament of 1467 (Nash, i. xxvii). He was nominated a commissioner of array on March 7, 1470 (P. R., 10 Ed. 4, p. 218), on the breaking out of a Lancastrian insurrection, and again after Edward 4's restoration on March 7, 1472 (ib. 12 Ed. 4, p. 348). In 1475 he was enfeoffed as a trustee of lands to the use of the will of the king's brother, the duke of Clarence, upon the occasion of Edward 4's invasion of France, in accordance with the provisions of the statute 14 Ed. 4, c. 1; ib. 15 Ed. 4, pp. 513, 518, 530. After the duke's execution he was frequently employed by the king on surveys &c. of his

Ciuitatis nostre Wygornie coram dominis de consilio nostro in camera stellata apud Westmonasterium ostensum est qualiter ipsi & predecessores sui a tempore quo non exstat memoria quandam custumam siue summas denariorum de subditis nostris pro bonis & mercandis in omnibus & singulis vasis videlicet Trowes botes ac aliis vasis per aquam & riolum de Saverne cariatis & conductis & in libertatem Ciuitatis nostre predicte confluentibus habere & percipere consueuerunt prout per eorum petitionem coram dicto Consilio nostro in Camera predicta exhibitam plenius liquet Nos vniciuique ligeorum nostrorum quod iustum est fieri ac de & super veritate petitionis predicte tenorem

lands (ib. 111, 319, &c.). On April 27, 1483, after the accession of Edward 5, he was nominated a commissioner of subsidy for Worcestershire (Pat. Rolls, 1 Ed. 4, p. 354). He was employed by Richard 3 on a commission to inquire into lands forfeited in Worcestershire by the supporters of the duke of Buckingham's abortive rising in the autumn of 1483 (ib. 1 Ric. 3, p. 392, December 10, 1483), and also as a commissioner of subsidy for the county (ib. p. 394, August 1, 1483). He was also a commissioner of array against an anticipated invasion by the earl of Richmond (Hen. 7) (ib. p. 399, May 1, 1484), and again on the December 8 following (P. R., 2 Ric. 3, p. 491). During the reigns of Edward 4 and Richard 3 he was continuously on the commission of the peace for Worcestershire. He was also much employed by Edward 4 upon commissions and inquiries in the county (see indexes to Pat. Rolls). He probably deserted to the side of Henry 7, for four months after Bosworth he received a writ directing the arrest of a number of persons, probably political opponents, December 28, 1485 (W. Campbell, 'Materials' &c., i. 223). He was also nominated on December 23, 1488, a commissioner to take musters of archers for the relief of Brittany (id. ii. 384). He appears to have received a grant of the office of escheator of Worcestershire, probably soon after the accession of Henry 7, for on February 10, 1488, on vacating it, he received the customary pardon (ib. 240). In this document he is described as 'late of Madresfield,' but no forfeiture is recorded against him in the Rolls of Parliament. He was appointed in 1503 a commissioner for Worcestershire to raise the aid granted to the king on the marriage of prince Arthur (Rot. Parl. vi. 535). He married Ann, second daughter and coheir of Sir Richard Beauchamp, lord Beauchamp of Powick, 'with whom he had Beauchamp's court' (Nash, ii. 118). This perhaps accounts for his description as

'late of Madresfield,' for in the register of his will, which was proved in 1507, he is styled 'esquire, Madersfield, Worcester' (J. C. C. Smith, Index, ii. 346). He left a son, afterwards (1533) Sir Richard Lygon. Nash, l.s.c.

⁴ Sic for Bodnam, as the signature shows. Roger, son of Roger Bodenham, and sheriff of Herefordshire in 1487 (P.R.O. List of Sheriffs, p. 60), lord of the manor of Byford, Herefordshire (Duncumb's 'Hist. of Herefordshire' [W. H. Cooke], iv. 63); Rotherwas (ib. p. 88) and Holampton (Inq. p. m. Hen. 7, i. 454). The son was nominated a commissioner of gaol delivery for Leominster, February 12, 1489; a commissioner for Herefordshire to raise the aid on the marriage of prince Arthur in 1503 (Rot. Parl. vi. 542). On the commission of the peace for Herefordshire, 1509-1513 (S. P. Dom. Hen. 8, i. 646, 675, &c.). A commissioner of gaol delivery at Hereford Castle, November 4, 1512 (ib. 3503). Died in 1514, when his son Thomas sued out livery of his lands in co. Hereford and the marches of Wales (November 16). Ib. 5610.

⁵ John Breynton, lord of the manor of Stretton Sugwas, co. Hereford (W. H. Cooke's addition to 'Duncumb's' Hist. [1892], iv. 163). A grantee from Henry 7 upon his accession of the office of Feodary of the manor or lordship of Fownehope, Herefordshire (W. Campbell, 'Mat.' i. 172; Rot. Parl. vi. 359 a). A commissioner of subsidy for the county in 1496 (ib. 518) and for the aid granted to the king on the marriage of Arthur, prince of Wales, in 1503 (ib. 542 b). A trustee of lands in the county to the use of the will of Sir Thomas Monyngton of Sarnesfield, in 1492 (Inq. p.m. Hen. 7, i. 825). On the commission of the peace for Herefordshire, 1509-1525 (S. P. Dom. Hen. 8, vols. i.-iv.). A commissioner for gaol delivery of Hereford Castle, November 4, 1512; a commissioner of subsidy for Herefordshire, November 2, 1523; died 1526. Cooke's 'Duncumb,' l.s.c.

cuius vobis mittimus⁶ presentibus interclusum per vos cerciorari volentes vobis de cuius fidelitate & prouida circumspeccione plene confidimus dedimus potestatem⁷ & auctoritatem tenorem predictam⁸ inspiciendi materia(m)que in eadem considerandi et ad omnes & singulos testes quos maxime pro testificacione veritatis materie predictae videritis evocandi coram vobis quinque quatuor tribus aut duobus vestrum ad certos dies & loca euocandi⁹ ipsos que & eorum quemlibet super materia predicta per eorum sacramentum examinandi. Et ideo vobis mandamus quod statim visis presentibus ac tenore supplicacionis siue petitionis predictae testes predictos quos maxime pro testificacione veritatis premissorum vt premittitur fore videritis euocandos coram vobis quinque quatuor tribus aut duobus vestrum ad dictos dies & loca quos ad hoc prouideritis venire faciatis & euocetis ac ipsos & eorum quemlibet de & supra materia predicta diligenter examinatis examinationes que suas recipiatis Et nos de examinacionibus huiusmodi cum sic capte fuerint coram Consilio nostro predicto in Camera predicta in quindena sancti Hillarii proxime futuri¹⁰ sub sigillis vestris vel duorum vestrum distincte & aperte reddatis cerciores remittentes nobis tenorem predictam⁸ vnacum hoc breve. Teste me ipso apud Westminsterium quarto die Decembris anno regni regis vicesimo.¹¹

GAWESEM.¹²

Indorsed. Responcio infrascriptorum Abbatis Gilberti Talbott
Thome Legon et Rogeri Bodynham.

Execucio istius breuis patet in quodam Rotulo huic
breui annexo.

⁶ The handwriting of C appears to be the same as that of this document, so that C is probably the copy here referred to, and B the original petition.

⁷ See p. 121, n. 4.

⁸ Sic.

⁹ Sic, repeated.

¹⁰ January 27, 1505. Hilary term began this year on January 23.

¹¹ 1504.

¹² The Exch. K. R. Mem. Rolls for 21 Hen. 7 (1505-6) shew that (John) Gawesem was at that time a clerk in the Exchequer, in which capacity presumably he signed the enrolments of the Royal Letters to the Barons of the Exchequer. He was afterwards clerk of Windsor Castle till August 27, 1509, when his post was filled. S. P. Dom. Hen. 8, i. 608.

E. Examinacions taken the xvijth day of January the xxth yere of the reinge of our souerain lorde king Henry the vijth ¹ at the Citie of Worcestre in the Countie of Worcestre before thabbatt of Bordisley Gylbert Talbott knyghte Thomas Lygon Gentilman and Roger Bodenham gentilman by vertue of the kinges writt to them dyrectyd and herunto annexyd.

Phelipp Trowman of areley in the Countie of Stafford sometyme of the Towne of Beaudeley of thage of lxx^{ti} yeres and more sworne and examynyd sayithe vppon his othe that Worcestre is an auncient Citie and holden by the bayliffes and Citezyns of the same Citie of the king our souerain Lorde in fee ferme, and what somme of money they pay therfore he knowith nott. Also he seith that the seide Citie is sett vppon the oone syde of the Ryuer of Savorne and that ther is there a brygge of stoon archyd and enbowyd for men to passe ouer that Ryuer with cart ² and wayne on horsbak and on fote and the grounde on bothe sydys the seide Ryuer and at bothe thendes of the seide Brugge is within the libertie and Fraunchesse of the seide Citie and parcell therof on bothe sydis of the seide Ryuer and bothe thendes of the seide Brugge there is ther grounde and soo the seide Ryuer rennyth throught the seide libertie and Fraunchesse and the seide brugge is always repayred when nede requyrith at the great costes and charge of the seide Bayliffes and Citezyns, butt what is the cost and charge therof he knowith nott. Also he seith that euery of the kinges leege people co[n]veying ther bootes Trowis and othre vesselles ladyn or chargyd with goodes or marchaundizes throught the seide liberties of the seid Citie and vndre the seide Brugge vppon the seide Ryuer haue ther passage and going at ther pleasur on the soyle and landes of the seide Bayliffes and Citezyns within the libertie of the seide Citie and att ther pleasur take ther tying in the seide streme and on ther land adioyning to the same and with lynys and cordis drawith ther seide Trowis botes and vesselles soo chargyd with marchaundise vppon the soyle of the seide Citie adioyning to the seide streme and with the seide cordes and with hokis pykkys and sparrys of irron drawith hokith tyith & puttith at the seide Brugge and greatly fretith lowsith and somtymes brekith and castith downe the stonys of the seide brugge whereby it is daylie enpeyryd, ³ which

¹ 1505.

² I.e. a two-wheeled as distinguished from a four-wheeled carriage. Cf. J. Taylor (1623), 'World on Wheels': 'As man

hath two legges, a cart hath two wheelles. J. A. H. Murray, 'Eng. Dict.' s.v.

³ Impaired.

hath be vsyd soo ther withoute tyme of mynde. Also he seith that he hath passyd by the seide Ryuer dyuers tymes as a Trowman by the seide Citie and vndre the seide Brugge fro Brystow with wyne and with other goodes and marchaundise and payd for his Trow or Cobull⁴ passing vndre the seide brugge vpwarde at euery tyme a peny, and euery man having merchaundise or goodes in the same Trowe paide ther custome that is to wytt for euery tonne or tonne tyght—iiij d. according to the olde custome alweys vsed, and al other men passing vndre the seide brugge with there cobulles and Trowys paide alweys ther custome in lyke forme as far as euer he knew, excepte thenhabitauntes of the Town of Bristow,⁵ the Forest of Dene,⁶ Shrowisbury⁷ and Bruggenorthe,⁸ which were euer fre for paying custome for ther marchaundise and goodis butt onoly the owner of the Trow paide euery tyme a peny for the passing of his Trow⁹ vpwarde and of thes customs and takyng the seide bayliffes and Citezyns haue byne peaseble possessyd by the space of fourtie yeris, during which xl yeris I occupied vppon the seide Ryuer as a Trowman. Butt he seith that King Edward the iiijth for the seruice that thenhabitauntes of Beaudeley dyd vnto hym att the fylde of Tewkisbury dischargyd them of almaner of customs in any wise to be takyn by the saide bayliffes and Citezyns of Worcestre¹⁰ and soo paide they noo custome by the

⁴ Coble, generally a flat-bottomed boat. J. A. H. Murray, 'Eng. Dict.' s.v. Used in E. Yorkshire for any small fishing-boat.

⁵ By the charter of Henry 2 dated 1164 the burgesses of Bristol were 'quit both of toll and passage and all custom throughout' England, Normandy, and Wales, 'wherever they shall come, they and their goods.' John, when Earl of Mortain, by a charter of 1188 expressly added 'pontage,' the duty now claimed. Henry 3 in 1252 confirmed the charters both of Henry 2 and of John. S. Seyer, 'Charters and Letters Patent of Bristol' (1812), pp. 1, 6, 19.

⁶ I have failed to discover any charter conferring the privilege of exemption from tolls upon the inhabitants of the Forest of Dean in H. G. Nicholls, 'Forest of Dean' (1858), or in Atkins, Rudder, or Fosbrooke. Qu. whether the allowed exemption was a submission to blackmail. See *Introd.* p. cxliv.

⁷ By a charter dated March 20, 1227, Henry 3 granted to the burgesses of Shrewsbury and their heirs to be 'free of toll, lestage, passage, pontage, stallage, leve [levy], danegelds, gaywite, and all other customs and exactions, both in England and all other the king's territories, saving the liberty of the city of London.' H.

Owen and J. B. Blakeway, 'History of Shrewsbury' (1825), i. 101.

⁸ By a charter of John dated January 10, 1215, the burgesses of Bruges (Bridgnorth) were made 'free and quit of toll and passage for all their merchandise, wherever they may pass throughout our land of England, saving to our city of London its franchises' (R. W. Eyton, 'Antiquities of Shropshire' [1854], i. 298). In 1223 the bailiffs of Bristol were forbidden to trench upon this immunity (Rot. Claus. i. 538; Eyton, i. 302). By a charter of Henry 3 dated June 20, 1227, the immunities above given as granted to the burgesses of Shrewsbury, including pontage, were granted to those of Bridgnorth. Eyton, i. 303.

⁹ Presumably on the ground that the immunities granted by the charters only referred to merchandise.

¹⁰ By letters patent dated October 30, 1472, Edward 4 granted to the burgesses and inhabitants of Beaudeley incorporation, and that they should be 'quit of toll, pontage, passage, paage, lestage, tronage, anchorage, stallage, carriage, pesage, pavage, terrage, picage, cheminage, murage, fossage, pedage, quayage, and other customs throughout the realm,' &c. Pat. Rolls 12 Ed. 4, p. 362.

space of thre yeris butt after they paide their custome as they dyd of olde tyme and paide vnto late dayes and further he knowithe nott in this matter.

Thomas Kynges of nether areley in the Countie of Worcestre of thage of lx yeris & more sworne and examynynd seith vppon his othe and agreyth with the seide Phelipp Trowman in euery thing and furthre he seith that the Town of Glowcestre is fre of all customs and takynges att Worcestre aforeseide¹¹ in lyke wise as Brystow, the Forest of Dene, Shrowisbury & Bruggenorthe, and more he knowithe nott in the matter.

William Wethye of Claynes in the Countie of Worcestre of thage of lxx yeris & more sworne and examynynd seith vppon his othe that he knowith of noo custome or taking of a peny of the owner of euery bote or Trowe passing vndre the seide brugge as is rehercyd and also seith that certen Townys be fre of customs and takynges att Worcestre and certen be nott fre, butt whiche Townys be fre ther and whiche be nott he cannott sey. And in euery othre thyng he accordith with the seide Phelipp Trowman and furthre he knowith nott in this matter.

William Yatton of Wyrbynhall in the parish of Kydurmynstre in the Countie of Worcestre of thage of xl yeris and more sworn and examyned seith vppon his othe that he hath occupyed vppon the Ryuer of Savarn and vndre the brugge of the Citie of Worcestre by the space of xx^{ti} yeris butt he knowith nott how far the Fraunches and lybertie of the seid Citie extendith and in euery othre thing agreyth with the seide Phelipp Trowman and furthre he knowith nott in the matter.

John Sowthall of Tewkisbury in the Countie of Worcestre of thage of l yeris & more sworne and examyned seith vppon his othe that he hath occupyed vppon the seid Ryuer and vndre the seide Brugge of Worcestre by the space of xxx yeris as a master of a Trow and seith that the Town of Tewkisbury is fre of all customs to be take[n]

¹¹ By a charter of Richard 1 dated May 6, 1194, the king granted to the burgesses of Gloucester 'the same customs and liberties throughout our land of toll and of all other things as the citizens of London and those of Winchester had at any time in the reign of King Henry, grandfather of our father.' 'Records of the Corporation of Gloucester,' ed. by W. H. Stevenson (Gloucester, 1893), p. 5. Letters in almost identical words from Henry 2, between 1163 and 1174, and from Richard 1, dated May 6, 1194, addressed to

the sheriffs of Gloucestershire, Worcester-shire, and Shropshire, 'command that the men of Gloucester and all those who wish to go by the river Severn shall have their way and passage free and quiet by the Severn with wood and coal and timber and all merchandise' (letter of Richard 1, ib.) By a charter of Edward 3 dated December 20, 1328, the burgesses 'shall be quit o murage, quayage, pavage, passage, gildage and merchants' gild, and of all other such customs throughout our whole kingdom. Ib. p. 12.

at the brugge of the Citie of Worcestre ¹² vppon the seid ryuer ecepte iiij d. for euery tonn tyght of goodes and marchaundise passing vndre the seide brugge. Butt how far the lybertie and fraunches of the seide Citie extendith he cannott sey and in euery othre thyng agreyith with the seide Phelipp Trowman and furthre he knowith nott in the matter.

John Walker of Tewkisbury in the Countie of Worecestre of thage of xxx^{ti} yeris & more sworne and examyned seith vppon his othe that he hath occupied vppon the seide ryuer and vndre the seide brugge as a purcer of a Trow by the space of iiij yeris butt he knowith nott how far the Fraunches and libertie of the Citie of Worcestre extendith butt he seith that the owner of euery Trow passing vpward vndre the seide brugge payith nothing for his Trow and in euery othre thing agreyith with the seide Phelipp Trowman and furthre he knowith nott in the matter.

Wattkyn Page of Beaudeley in the Countie of Salop of thage of lx yeris & more sworne and examyned seith vppon his othe that he hath occupied vppon the ryuer of Savarne and vndre the bryge of the Citie of Worcestre as a master of a Trow by the space of xx yeris for dyuers men butt he knowith nott how far the fraunches and libertie of the Citie of Worcestre extendith and in euery othre thing agreyith with the seide Phelipp Trowman and furthre he knowith nott in this matter.

Richard Piers of Grymley in the Countie of Worcestre of thage of lx ¹³ yeris and more sworne and examyned seith vppon his othe ¹⁴ that he hath occupied vpon the ryuer of Severn & vnder the seide brugge of the Cite of Worcestre as a purcer and master of Trowis and Cobulles by the space of xl yeris and in euery othre thing he agreyith with the seide Phelipp Trowman and furthre he knowith nott in the matter.

Thomas Bedill of Grymley in the Countie of Worcestre of thage of xl yeris & more sworn and examyned seith vppon his othe that the Townys of Brystow & Glowcester Shroswisbury and Bruggenorth byn discharged of almaner marchaundise and goodes caryed in botes or

¹² By a charter dated August 12, 1337, Edward 3 granted to the burgesses of Tewkesbury 'to be for ever free of toll, pannage, morage, pontage, quayage, lastage, pickage, stickage and stallage, and of all other customs . . . throughout our whole realm.' J. Bennett, 'Hist. of Tewkesbury' (1830), p. 325.

¹³ xl struck through.

¹⁴ The deposition as it originally stood continued: 'that the Townys of Bristow, Gloucester, Shrowisbury & Bruggenorth byn discharged of almaner marchaundise and goodes carryed in botes and Trowes vndre the brugge of the Citie of Worcestre.' These words are struck through and those of the text interlined.

Trowis vndre the Brugge of the Citie of Worcestre and in euery other thyng he agregith with the seide Phelipp Trowman and furthre he knowith nott in the matter.

John Yatton of Dowlys in the Countie of Salop of thage of xl yeris & more sworn and examyned seith vppon his othe that Worcestre is an auncient Citie holden of the king our souerain lorde by a fee ferme the some whereof he knowith nott. And also he seith that he hath laboryd vppon the ryuer of Savarne and vndre the brugge of the seide Citie in Trowis and botes dyuers tymes and the owner of euery Trow or Cobull passing vppward vndre the seide Brugge payithe att euery tyme a peny for his Trow, and the owner of the goodes in the seide Trow paith for euery Tonne or tonne tyght iiij d. and this hath byne euer vsyd as far as euer he knew. And furthre he knowith nott in this matter.

William Holwey of ouer areley in the Countie of Stafforde of thage of lx yeris & more sworne and examyned seith vppon his othe that Worcestre is an auncient Citie and holden by the bayliffes and Citezynes of the Same Citie of our soueran lorde the King in fee ferme and what somme of money they pay therfore he knowith nott. Also he seith that he hath dyuers tymes carryed woode in Trowis and botes vppon the Ryuer of Savarn vndre the brugge of the seide Citie and paid yerely for his Trow to the seide bayliffes and Citezynes xx d. for his haling tyage and hoking att the seide brugge which brugge is oftentimes hurtyd therby and amendyd ageyn att the costes of the seide bayliffes and Citezynes. Also he seith that euery man passing vnder the seid Brugge with ther Trowis payith in lyke forme & euer dyd as he hath harde sey euer. And more he knowith nott in this matter.

William Palmer of Vpton Warren in the Countie of Worcestre of thage of xxx^{ti} yeris & more sworne and examyned seith vppon his othe that he hath carryed dyuers tymes irron wyne and hering and other stuff of dyuers men whiche wyn hering and othre stuff were sett on land vppon the key made of stoone of Worcestre and he paide to the seide bayliffes for euery tonne tight theroff iiij d. excepte that the owners of the same irron wyne heryng and othre stuff agreyd with the seide bayliffes of the Citie of Worcestre for the custome ther. And furthre he knowithe nott in this matter.

Richard Lokook¹⁵ of Kyngisnorton in the Countie of Worcestre of thage of xl yeris and more sworn & examyned seith vppon his othe that he hath oftentimes bought iron and dyuers othre

¹⁵ Will proved 1510. J. C. C. Smith, Index, ii. 339.

merchaundise att the key made of stone in the Citie of Worcestre repayred and amendyd euer when nede requyrith att the costes and charges of the bayliffes and Citezyns of the seide Citie and hath paide to the seide bayliffes for euery tonne tyght therof iiij d. and this doo all othre men euer pay as far as he knowith. And furthre he knowith nott in the matter.

Richard Vytter¹⁶ of Kyngisnorton aforeseide of thage of xxx^{ti} yeris and more sworne & examyned vppon his othe seith and agreyith with the seide Richard Locook in euery thyng and further he knowith nott in this matter.

Thomas Seriaunt of Kyngisnorton¹ aforeseide of thage of xxx^{ti} yeris and more sworn & examyned vppon his othe seith and agreyith with the foreseide Richard Locook in euery thyng and further he knowith nothing in this matter.

William Palmer of Burnfordyelde in the parish of Bromysgrove in the Countie of Worcestre of thage of xl yeris & mo[re]¹⁷ sworne and examyned vppon his othe seith that he hath caryed irron wyne hering & othre marchaundise of dyuers mens sett on lande vppon the key made of stoone of the Citi[e]¹⁷ of Worcestre always repayryd when ned requyrith att the costes and charges of the bayliffes and Citezyns of the seide Citie and paide for euery tonne tyght therof iii[j] d.¹⁷ or els the owners of the seide marchaundise dyd agre with the bayliffes of the seide Citie^{*17} this dyd euery othre man pay hauyng any stuff ther as far as euer he hard and [further]¹⁷ he knowith nothing in this matter.

Richard Wodwall of Beaudeley in the Countie of Worcestre sworn and examyned bef[ore]¹⁷ Gylbert Talbott knyght seith vppon his othe that he hath always paide to the bayl[iffes]¹⁷ and Citezyns of Worcestre for his Trow or Cobull passing with any goodes or marchaund[ise]¹⁷ vppon the Ryuer of Savern and vndre the brugge of Worcestre att euery commyng vp of th[e]¹⁷ bote that wey a peny, and for euery tonne & tonne tyght of goodes & marchaundise in the seide Trowe or Cobull iiij d., and also seith that thenhabitauntes of the Town of Beaudeley paide noo soche custome in the dayes of king Edward the iiiijth by the space of thre yeris and after they paide custome as they dyd before tyme. And as to the resydue of tharticles he was nott examyned.

And we the seide Abbott, Gilbert Talbott knyght, Thomas Legon & Roger Bodnam certifie the king our souerain Lordes moste honor-

¹⁶ Will proved 1504 of Richard Vytter the elder, of King's Norton. Ib. p. 546.

¹⁷ MS. torn.

able and most discrete Counsell in the starryd Chamber thaboue
writtyn examinacions by vs taken in maner and forme afore rehercyd.
And herunto haue putt our seales¹⁸ the day & yere aboue seide.

Indorsed. A certificate of the Citie of Worcestre, &c.

In modern hand. Worcester, Bailiff, and Citizens of.

WHYTE v. GLOUCESTRE, MAYOR AND BURGESSES OF.¹

F. To the Lordes² of the kyngis ho[nourable]³ counsell in the
Sterre chamber.

1505 In the moost humbly wise shewith vnto youre good lordshippys
Thomas Whyte⁴ marchaunt that whare as he and all the kynges liege
peopull for the tyme that no mynde is haue vsed to passe by the
Towne of Gloucestre in the countie of Gloucestre throwe in and vpon
the water of Seuern with Trowes⁵ botes and other veselles with
marchaundises and other goodes within the same and to Tye to the
keyes there and to passe thorow their Burge⁶ with cordes hokes and
other ingyngs puttyng halyng and drawyng vpon the bankes of the
seid Ryuer and the Byrge⁶ of the seid Towne for the sauf conueyance
of the seid veselles and botes without eny toll or other custume
therfore payyng vnto the tyme of Kyng Henry the vith Kyng Edward
the iiijth late kynges of Inglond and in the tyme of oure souerayn lord
the Kyng that now is in which tymes the mayer and other of the
seid Town of Gloucestre and their predecessours haue caused diuerse
of the kynges Liege peepull passyng by the seid Ryuer and Town
with botes vesselles and marchaundises and other goodes within the
same to be arestid and committed to the Geale of the seid Towne and
of diuerse other of the seid kynges liege peopull haue arestid and
takyn parte of theire seid marchaundise and the seid kynges liege
peopull so arestid haue kept in ward and the seid goodes so takyn
haue reteyned vnto they haue had of the seid people for euery Tonne
tyte⁷ of the seid marchaundise sumtyme xij d. sumtyme viij d.

¹ Presumably cut off.

¹ S.C.P. Henry 7, No. 42.

² 'Kyngis' struck through before
Lordes.

³ MS. torn.

⁴ There were several contemporaries of
this name, but there is no sufficient clue
given here for identification.

⁵ The 'trows' is described by J. O.

Halliwell in 'Arch. Dict.' as 'a sort of
double boat, with an open interval between
and closed at the end, used on the North
Tyne for salmon fishing.' Here, however,
the word seems to be 'trow,' and simply to
mean a barge.

⁶ Bridge.

⁷ 'Tite, weight. Somerset.' J. O. Halli-
well, 'Arch. Dict.,' s.v.

sumtyme vj d. and sumtyme lesse as it lyked theym and for the reformacion therof in the tyme of the seid late kyng Henry the vith and speccially in the tyme of our seid souerayn Lord the kyng that now is the xixth yere of his Realme it was enacted⁸ that their seid peopull shuld frely passe by the seid Strete and that no persons shuld of theym take nor aske any thyng for their seid passage vpon payne of xx li, Prouyded that if eny person or body corporate coude afor the lordes of the kynges moost honourabull counsell in the Sterre chamber shewe thatt they ought to haue for the seid passage eny toll or other custome and cowde proue their tale good to the same, that then they shuld be herde as by the seid acte made the seid xx^{ti}⁹ yere of oure seid souerayn Lord more pleynly is expressid and therupon the seid mayer and Burgenses pretending to haue auauntage by the seid Statute haue late presentid a byll to your gode lordshippys surmysyng by the same that they and there predecessours for the tyme that no mynd is haue vsid to haue of euery bote passyng thorow the seid Towne by the seid water applyng to their keyes there or passyng thorow their Burge halyng puttyng or drawyng with cordes or howkes vppon their bankes of the seid ryuer there or by their Burge shuld pay toll for euery Tonne tyte of their seid marchaundise vj d. as by the seid byll more pleynly apperith wher of trouthe they neuer vsed nor had eny suche custome nor toll except in the tyme of the seid late kynges that they by extorsyon leuyed the seid summys of mony of diuerse of the seid kynges Subiettes as your seid Oratours hath aboue alegid. Wherfor youre seid Suppliant besechith your gode lordshippys to be amytted¹⁰ into this Court to disproue the pretensid title and clayme of the seid mayer and Burgeses and to bryng in his prouys for the same for the welthe of your seid Suppliant and all other the kynges liege peopull passyng by the seid ryuer. All whiche mater your seid Oratour is redy to proue as this court wyll award and praiyth as he hathe aboue prayed.

Indorsed. Termino Pasche anno regni regis xx^{mo}.¹¹

⁸ 19 Henry 7, c. 18. 'De Fluvio Sabrini.' See Introduction, p. cxlv.

⁹ Sic. There was no Parliament during this reign after 19 Henry 7 (1504).

¹⁰ For 'admitted.' Cp. Madeley v. Fitzherbert, D, p. 60, n. 11.

¹¹ April 9-May 5, 1505.

POWE AND ANOTHER *v.* NEWMAN.¹

A. To the moost Reuerende father in god my
lorde Archebisshopp of Caunterburye ²

504 Moost lamentable compleyneth vnto youre goode and graciouse
-13 lordeshipp your contynuall Oratoures and dayly beedmen Thomas
Powe ³ and Thomas Towker of the diocese of Bathe and Welles. That
where as your said Oratoure Thomas Powe hathe a quearell
dependyng in your noble Courte of the Audience ⁴ betwen hym of
oone partie actif and oone John Newman otherwise called Elys of the
other partie defendant, And the same John for his contumacie
obteyned by your honourable Auditoure ⁴ lawfully to be suspended
oute of the church, ⁵ And vpon the same hadde oute your lettres of
execucion ⁶ so to denounce ⁷ the same John Newman in the parishe
church where he dwelleth and so it is moost gracious lorde that for
bicause oone of your forseid Oratoures Thomas Towker whiche at
thinstant desire and diligent requisicion of the seid Thomas Powe
your oratoure aforeseid brought your foreseid moost reuerend letters
of execucion and them delyuered to the parishe prest or Curate of the
parishe church of Comehawie ⁸ of the same diocese for to denownce

¹ S.C.P. Hen. 7, No. 62.

² Presumably William Warham or Wareham, lord keeper August 11, 1501; archbishop of Canterbury November 29, 1503 (J. Le Neve, 'Fasti,' i. 24); lord chancellor January 21, 1504. He resigned the chancellorship December 22, 1515; died August 22, 1532. 'Dict. Nat. Biog.'

³ A family of this name inhabited the parish of Langridge, three miles N.N.W. of Bath and about six miles distant from Combe-Hawie. J. Collinson, 'Hist. of Somerset' (1791), i. 133.

⁴ See *Introd.*, pp. lxxxv-xc, *supra*.

⁵ Presumably sentenced to 'suspensio ab ingressu ecclesiæ.' This, which was generally, though not exclusively, inflicted on the laity, was, as bishop Gibson says, 'a temporary excommunication,' inflicted for offences of an inferior nature, and terminated by satisfaction given to the judge (E. Gibson, 'Codex juris ecclesiastici' [Oxford 1761], ii. 1047). For instance, by 5 Ed. 6, c. 4, § 1 ('An Acte agaynste fightinge and quarelinge in Churches and Churchyardes') it was prescribed as the penalty for brawling laymen, to terminate at the discretion of the Ordinary.

⁶ Apparently the *litteræ denunciatoriæ*.

See next note.

⁷ Cp. the 33rd of the Articles of Religion: 'That person which by open denunciation of the Church is rightly cut off from the unity of the Church and excommunicated' &c. 'Si reus nec per se nec per Procuratorem suum comparuerit, Procurator Actoris concipiet in scriptis literas denunciations excommunicationis, et easdem sigillo judicis communiri faciet: mittetque Rectori, Vicario sive Curato Ecclesiæ Parochialis personæ excommunicatæ ad denunciandum et publicandum easdem Divinorum tempore aliquo die Dominico seu Festivo' (T. Oughton, 'Ordo Judiciorum' [1738], i. 69). The incumbent was bound under penalty of suspension to publish the letter of denunciation and to return a certificate of having done so to the party who obtained them. *Ib.* p. 70.

⁸ Combe-Hawey or Combe-Hay, three miles S.S.W. of Bath; in Domesday, Come. Its second name was derived from the family of Hawey or Hay who held the manor not long after the disgrace of Odo, bishop of Bayeux, in 1088, to whom it had been granted by the Conqueror. In the reign of Edward I it passed, through the marriage of Julian, daughter and

suspended the foresaid John Newman in the seid parishe church and otherwise to doo accordyng as the tenor of the seid lettres makethe mencion, The foresaid John Newman of all the premisses hauyng knowlege And assone as your moost reuerend lettres were so executed, and by the reason of the same not only the foresaid Thomas Towker your mandatorye in that behalfe pullyng and halyng hym by the bodie wrongfullye intreted hym And to hym speke many iniuriouse and vilependiouse wordes but also caused your Oratoure and mandatorye wrongfully at his sywte to be arrested And him like a felon his handes bounde byhynde hym led to preson And also caused the cattell of the seid Thomas Powe your Oratoure and the cattell of the fader of the seid Thomas to the nombre of x oxen to be arrested and dreven away by force the seid Thomas Powe then beyng at London geuyng attendaunce vpon his counsell of your honourable Courte where the fader of the seid Thomas bey(ng)⁹ of the age of lxxij yeres, feryng the vtter vndoyng of hym self and also of his sonne, was feyne to make hym frendes to take the seid John Newman otherwise called Elys vij^{li} vj^s viij^d to haue his Catell agey(n)⁹ where there was no peny due And after the maner of extorcion orels brybery¹⁰ the seid John Newman withholdeth and kepeth the seid Somme of vij^{li} vj^s viij^d wrongfully to the grete lost¹¹ and hynderaunce of t(he)⁹ seid olde man fader to the seid Thomas Powe your oratoure. And when the seid John hadde the seid Somme of money he thretenyng the olde fader with maliciouse wordes seyng, this money shall finde the *⁹ thy sonne plee y nowith¹² Beforce whereof it wyll ensewe to the vtter vndoyng of your seid Oratoures onlesse your lordeshipp the more gracious be shewed to theym in this behalf. Hit may please youre goode lordesh(ip)⁹ the premisses tenderly considered¹³ And also the vntrew Arrestes made to thentent youre said Oratoure shuld surcesse his seid Accion yn your Courte¹⁴ to graunte a writ sub pena to be dir(ected)⁹ to the said¹⁴ John Newman otherwise called Elys

heiress of Thomas Hawey, to Sir Peter Stradling, knight, whose family, the original name of which was Le Esterling, had emigrated from the Baltic to England in the eleventh century. J. Collinson, iii. 335.

⁹ MS. torn.

¹⁰ I.e. robbery with violence. Cp. A. Fitzherbert, 'Surveyenge,' Prologue: 'A gretter bribery nor extoreyon a man can not do than vpon his owne tenautes;' and see J. A. H. Murray, 'Eng. Dict.' s.v.

¹¹ Sic.

¹² Enough.

¹³ An erasure of about five inches in length follows.

¹⁴⁻¹⁴ In another hand, in substitution for words erased. After the word 'said' follows an erasure of about an inch and a half in length. These erasures and the substitutions consequent appear to have been made in order to change the court from which the petitioner sought redress. The petition was apparently originally destined to the archbishop of Canterbury for contempt of his Court of Audience. The draughtsman, whose advice

commaundyng him by the same to comme and make Answer before ¹⁴the king our soueraign lord & his most honourable counsell at a certeyn day and vpon a certeyn peyne ¹⁴ by your lordeshipp to be lymytted And to reforme hym according to his meritis yn this behalf after your noble discrecion And your seid Oratoures shall pray god for the preseruacion of youre noble estate.

Indorsed. Scilicet coram Rege in Consilio suo in Octabis sancti martini proxime futuri.¹⁵

(*In modern hand*) Powe v. Newman.

B. The aunswere of John Newman to the bill of
Compleynt of Thomas Powe & Thomas Towker.

The seid John seith that the seid bill is vncerten & insufficient to be awnswared vnto and all thyng conteyned in the same is mater determinable at the Comen law and not in this Court. And ferthermore as to the first poynt as to the wrongous vexacion doon agaynste the said Thomas Towker by the said John as pullyng and haylyng hym by the body in riotous maner when he brought the lettres of execucion into the said Parissh Church as is supposid in the said bill The said John seith that at that tyme that the said lettres in to the said parissh Church were brought & the wrongous vexacion in the same Church as in the said bill is supposid to be doon that he was not nere the said Church & place by the viage of x myles and more And for forther Aunsware to the ij^d poynt as towchyng the areste & bryngyng of the said Thomas Towker to prison like a felon The said John seith that the said Thomas Towker hath comyn many & diuerse tymes with iiij or v persones with hym & hath manassed enthretid & spokyn malicious wordes vnto hym wherof he was in doute & iepardy of deth and so for saffgard of his lyf he went to a justice of the peas of the same Shyre & so hadd out a warrant for the same Thomas Towker for to fynd surerte to bere & kepe the peas agaynste hym as law & right requerith And also for more vnsware to the

was subsequently followed, relied upon the 'vntrew arrestes' of the petitioner and Towker as bringing the case within the cognisance of the Star Chamber. Except by forcing the words of the recital 'to the ences of . . . unsuerties of all men lyvyng and losses of their londes and goodes,' it does not seem possible to make the Act applicable. Nevertheless, it was in virtue of the recital that the Star Chamber assumed

cognisance of perjury (see p. 19, n. 8), and the readiness of the Court to extend its jurisdiction probably justified the draughtsman's tactics. It is curious that the concluding prayer is addressed, not to the archbishop and the Council, but to the archbishop alone, conformably to the original intention of the petitioner. See further *Introd.*, p. lxxxix, *supra*.

¹⁵ November 11-18.

ij^d poynt as to the arestyng & dryvyn a way the catell of the Fader of the said Thomas Powe as is supposid in the said bill The said John seith that he as Seruaunt & Baylly vnto oone Edward Stradlyng¹ Squyer & by his commaundement distreyned the said Fader of the said Thomas Powe as a Tenaunt vnto the said Edward his mayster for arrerage of his rent & ferme dewe vnto hym the which arrerages amounteth to the said Somme of vij^{li} vj^s viij^d as is surmitted in the said bill the which he will averre and prayeth to be dismyssed out of this Court with his resonable Costes for his wrongous vexacion in this behalf.

WORCESTRE, BISHOP OF, *v.* THOMAS & OTHERS.¹

A.

To the Kyng our soueraign lord

1505 Humbly Shewith vnto your highnes your feithfull Chapleyn and contynuall Oratour Siluestre Bishop of Worcestre² That Where at a launday³ & Court holden for your supplyant at Stratford vpon avene⁴ in your Countye of Warwyk ellecon was made by the xij men sworn at the same launday & Court of too Constables for the conseruacon of your peas with in the preeyncte of the same town⁵ and of a baily⁶ ther to be for the yere folowyng as all weys hath he vsed ther out of tyme of mynde one Thomas Thonasyng of the same Town yoman which of his own presumptuous mynde wold haue be bailly ther for this yere, not plesyd with the seid ellecon assemble⁷ with one Richard Bentley⁸ and John Stafforshire⁹ of the same yonen¹⁰ & other mysruled personys to the Nombre of xij with billes Clubbys Stanys & Swerdes came riotously to the hous wher the seid launday & Court was holden

¹ Eldest son and heir of Thomas Stradlyng, lord of the manor, by Jennet daughter of Thomas Matthew of Rhydor, Glamorganshire. Thomas Stradlyng died in 1480. Edward Stradlyng married Elizabeth daughter of Sir Thomas Arundel of Lanherne, Cornwall. He was knighted at Tournay on September 25, 1513, for his services in Henry 8's expedition against France (W. C. Metcalfe, 'Book of Knights,' p. 49, with which cf. Halle v. Essex, A, p. 172, n. 5, supra). This fact determines the latest limit of date for this case. Sir E. S. died in 1535. J. Collinson, 'Hist. of Somerset' (1791), iii. 335.

² S.C.P. Hen. 7, No. 66.

³ Silvestro Gigli, bishop of Worcester, 1498-1521. See 'Dict. Nat. Biog.'

⁴ Qu. the old English form of the

genitive, i.e. the day of law. Cf. p. 44, n. 8.

⁵ Stratford-on-Avon had been a manor of the See of Worcester since 716. See R. B. Wheler, 'Hist. &c. of Stratford-upon-Avon' (1806), p. 2.

⁶ Under the provisions of the Statute of Winchester (1285). Cf. p. 143, n. 27.

⁷ Called in a deed of 1469, 'capitalis ballivus.' Wheler, p. 18, n.

⁸ Sic for 'assembled.'

⁹ Master of the Gild of St. Cross in 8 Henry 7 (1492-93). J. O. Halliwell, 'Calendar of Records of Stratford-upon-Avon' (1863), p. 57.

¹⁰ The name of a Stratford family. Ib. p. 55.

¹¹ Sic for yomen (yeomen). Cf. the writing of Thonasyng for Thomasyn, supra.

and then ther whold haue slayne one John Elys deputie Styward sitting & keypyng the seid Court and ther with exclamacon seid that ¹¹ William Cottoun ¹¹ which was ellecte bailly as is aforeseid shuld not be bailly ther Who so euer wold sey naye and with assautes & exclamacons riotuosly kept the seid deputie Styward bailly & xij men tille hit was passed x of the klokke in the nyght to the grete distorbans of your peas and in contempt of your highnes & of your lawes to the perillous example of mysdoers enlesse they may haue due punyscion therfore. In consideracon wherof that it wille pleas your highnes to directe your honorable letters of pryue seale to the seid Thomas Thonasyn Richard Bentley & John Staffordshire to appere before your highnes and your most honorable Counsaill at your palous of Westminster at the viij^{tas} ¹² of seynt hillarii next commyng there to aunswere to thes premisses & to be punyshed for their seid riotte & contemptes. And your seid humble Oratour shall daily pray to God for the preseruacon of your most Riale estate long to endure.

Indorsed. ¹³ Respondeat apud Westmonasterium octabis hillarii ¹³ Episcopus Wigornensis.

Termino Hilarii anno vicesimo.¹⁴

Episcopus Wigorniensis contra Thomam Thomasyn Rychard Bentley & Johannem Staffordshyre worsecester.

B. This is the answeere of Thomas Thomas ¹ Richard Bentley & John Staffordshire to the byll of Complaynt of Syluester Bisshopp of Worcestere.

They sayen that that at the sayd lawe daye holden at the said Town of Stratford vppon aven that suche xij men that there shuld be sworne haue bene vsed owt of tyme of mynd to be xij of the most substanciall & honest persones of the same Town to thentent that they shuld Chose substanciall men & men of honest Conuersacon to be Constables & Bayllyffes of the same Town for the yere ensuyng And oon John Eylis beyng Stywardes deputie of the same Town to thentent that he wold make Bayllyffes & Constables of the said Town suche as

¹¹⁻¹¹ A blank had been left and is filled in with this name by another hand.

¹² Utas or Octave—i.e. January 20, St. Hilary being January 13. See J. J. Bond, 'Handy-Book of Dates' (ed. 1875), p. 160. The word is 'quasi huitas, from huit' (Fr.). R. Nares, 'Glossary' (1888), s.v. The ancient form of huit was uit, and originally

oit (octo). A. Brachet, 'Dictionnaire Etymologique' (1879), s.v. Huit. Cf. p. 38, n. 16.

¹³⁻¹³ In another hand.

¹⁴ January 23–February 12, 1505.

¹ Note this variation in the name and that in C.

hym shuld please caused the jurie to be made of the most senglest² & symplest persones of the said Town And some of them wer but mennys seruantes And left the substanciall men owt of the same jury And after the said jury was sworn they kuld not agree vppon oon of the Baylyffes and they so beyng not agreed the said John Eylis proclaymed Baylyffes & Constables at large in the sayd Town suche as hym pleased as thoughe the same jurates hadde been fully agreed on the same without the assent or agrement of the said xij men and bifore any verdite by them geven And then Richard Bentley & John Staffordshire came to the said John Eylis & shewid hym that they did not well to proclayme the said officers bifore the said jurie were agreed vppon them but advised hym to put the said jury in a howse till they were agreed. And the said Thomas Thomas saith that in the mornyng of the same day owt of the Courte & long bifore the Court began the same John Eylis & the said Thomas Thomas Fell at wurdes for an entre made by the said John Eylis in the name of the said Bisshopp in to certen londes of Thomas handys wyfes by occasion wherof the same John Eylis was about to drawe his knyff at the said Thomas Thomas. Without that the said Thomas Thomas Richard Bentley & John Staffordshire with other to the nombre of xij persones came with billys³ Clubbys⁴ staffes & Swerdes Riotously to the howse where the said lawe day & Court was holden or there wold haue slayn the said John Eylis sittying & kepyng the said Court And without that that they with assautes & exclamacions riotously kept the said John Eylis Baylyf & xij men till it was past x of the Clok in the nyght. Ant⁵ without that eny of them were or be gilty of eny riott or misdemeanure comprised in the said bill And without that the said Thomas Thomas cam to the said Court at eny tyme duryng the same. All which matiers they bene redy to proue as this Court will award And prayen to be dismyssid owt of the same with there reasonable Costes & damages for their grete trouble and wrongfull vexacon in that behalf.

- c. This is the replicacon of the Bishop of Worcettour to the aunswere of Thomas Tomeson Richard Bentley & John Staffordshire.

The seid Bishop seith & auerith his bille of Complaynt to be true. How be hit that the seid Thomas Tomeson Richard Bentley & John

² I.e. silliest, weakest. See J. O. Halliwell, 'Dict. of Archaic Words' (1850), s.v. Single.

³ See *Walterkyn v. Letice*, p. 165, n. 5.

⁴ See *Eynesham, Abbot of, v. Harecourt and others*, p. 160, n. 26.

⁵ Sic.

Staffordshire Colerably wold excuse their rioute & mysbehauynges conteyned in the bille and moreouer he seith that the elleccion of the bailly & officers was made by agrement of honest personys sworn at the seid Court. Also he seith that one William lane & Richard Bucke receuour & surueyour of his landes then beyng in the seid towne of Stretford and perceuyng the grete perell that was lyke to ensue by reason of the seid rioute & onlawfull essemble of the seid defendantes went vnto doctor Collyngwod warden of the Colege of Stretford¹ & desired hym to lycens certeyn of his seruantes to attende & assist theym in Company to the seid Court howse for the appesying of the seid riotuose delyng wherupon certeyn of the seruantes of the seid warden & by his commaundement went with the seid William lane & Richard Bucke to the seid Court house and then they by their wisdommys with grete defyculte caused the seid mysdowers to departe & the seid depute Styward & othir of the xij men to come forth out of the seid house. Without that the seid jurie sworn at the seid Court was made of symple personys or mennys seruantes as is surmysed in the seid aunswere, and without that the seid John Eylis proclaymed the baillys & Constables of the seid town for the yere folowyng before the seid xij men were agreed or without their assentes. Also he seith that the seid Thomas Tomeson Rayled & hadde onsittyng² langage towardes the seid John Eylis in the mornynge before the Court and wold haue drawn his wodknyf on hym and by cause he coude not then accomplishe his malos and also haue the bailly to be chosen after his wille & entent he conspyred with the seid Bentley & Staffordshire to pyke quarelles & Challenge the seid deputie Styward sittyng in the Court accordyng & do³ as it is conteyned in the seid bille of complaynt and for asmeche as hit apperith by the seid aunswere that the seid Riotous personys of their malicious mynde entendyd & were aboute to take on theym the rule & ordour of the Court wher as yf ther hadde be any myserdore hit hadde be conuenient to haue shewed hit to the seid receuour & surueyour then present in the towne. All which maters he is redy to proue as this Court award hym and praith to be dismyssed with his reasonable Costes for his wrongfull vexacon.

Indorsed (in modern hand). Worcester, Bishop of, *v.* Tomeson & al.

¹ Ralph Colyngwood, or Collingwode, D.D., prebendary of York, April 6, 1487; Warden of the Collegiate Church of Stratford-upon-Avon, 1491; Dean of the Collegiate Church of St. Mary, Warwick, 1507;

Archdeacon of Coventry, 1510; Dean of Lichfield, 1512; died 1518. Wheler, p. 31.

² Unsitting, unsuitable. Halliwell, s.v.

³ Sic for 'unto.'

D. This is the reioynder of thomas thomas, Richard Bently, And John Staffordshere To the replicacion of the bisshopp of Wosseter.

They sey And Auerre theire seid Answere to be good and trewe in euery thyng in the same Answere by fore Alleyed¹ With ovtte that that they caused the seid depute Steward and xij men to be kept in the seid cowrte howse tyll the ower of x of the clock at affter none or that the seid Thomas Richard or John departid from the seid cowrte by grett dificulte & labour of the seid William lane And Richard Buck or that they or eny of them compelled the seid depute Steward for any Pere to tary in the seid cowrte howse. And with oute that that the seid thomas thomas rayled or had any on syttyng² langgage a genst the seid John eylys depute steward or wold haue drawyn his wodknyffe vppon hym and with oute that he conspired with the seid Richard bentley and John Staffordshere to pyck quarells or challenge the seid depute steward or do any thyng that is comprised in the seid byll of complaynt And with oute that the seid thomas thomas Richard or John or eny of them entendyth or were aboute to take vppon them the ordre or rule of the seid courte but oonly cheritable to enforme in goodly maner the seid depute steward of his myssedelyng contrary to there lawdabill customez of the seid towne by fore tymes vsed all wiche maters they be redy to prove as this courte woll awarde and pray as in the seid answer they haue prayed.

DALABERE AND OTHERS, JUSTICES OF PEACE, CERTIFICATE OF.¹

To the Kynge and his Councelle

1506

The certificat of sir Richarde dalabere² knyght walter baskervyle³ Knyght and Rowlande morton⁴ Justices of the peeze of the shere of hereforde and sir John lyngen the yunger⁵ Knyght Scheryff of the same Schere.

Where it is ordeynyd & provided by a statute made in the xiiijth yere of the reygne of the ryght noble prince henry the iiijth⁶ That yif

¹ See p. 113, n. 1.

² For 'unsitting' see C, n. 2, p. 233, supra.

³ S.C.P. Hen. 7, No. 19.

⁴ Sir Richard Dalabere of Southam, Gloucestershire (Sir R. Atkyns, 'State of Gloucestershire' [1768], p. 185), and a considerable landowner in Herefordshire (W. H. Cooke's 'Continuation of Duncumb' [1892], iv, 33),

son and heir of Sir Kynard Dalabere, or Dalabar, by Joan, eldest daughter and co-heir of Sir Thomas de Barry. (Atkyns, l.c.) Entrusted by Edward 4 in 1474 with a commission, under Anthony Wydeville, Earl Rivers, Edward's brother-in-law, to suppress an insurrection in Wales. Pat. Rolls 13 Ed. 4, p. 429 (26 Feb.). But he must

any Ryotte Rowtte or assemble of people agenste the law within any payrte of the Realme be made That then the Justices of the peez iij

have been suspected of Lancastrian sympathies, for he was not placed upon the Commission of the Peace until Dec. 6, 1470, during the brief restoration of Henry 6 (Pat. Rolls, 1467-77, p. 616), nor again during Edward's 4's reign; nevertheless he was dubbed a knight by the king on January 18, 1477, the occasion of the marriage of Richard Plantagenet, Duke of York, Edward 4's second son (aged five), to Anne Mowbray (W. C. Metcalfe, 'Book of Knights,' p. 5). He was sheriff of the county in 1478, and again in 1482 ('List of Sheriffs,' P. R. O., p. 61). He was replaced on the Commission of the Peace for Herefordshire on May 14, 1483, while Richard Duke of Gloucester was still Protector, and was appointed a commissioner for subsidy in Herefordshire soon after his accession, August 1, 1483 (Pat. Rolls, 1 Rich. 3, p. 394). He was apparently trusted by Richard 3, being placed by him upon the commission of array for Herefordshire to resist the anticipated invasion of Henry, Earl of Richmond, an important charge in view of the Lancastrian sympathies of the Welsh (May 1, 1484, *ib.* p. 401), and again on December 8 following (*ib.* p. 491). But he probably deserted to Henry 7, for on December 28, 1485, a writ was issued by the new king ordering him to arrest a number of persons, probably political opponents (W. Campbell, 'Mat.' i. 223), and he received on December 17, 1486, a grant of an annuity of £10 out of the issues of the lordship or manor of Snowdehill, Herefordshire (*id.* ii. 78). For his prowess at the battle of Stoke, in which John de la Poie, Earl of Lincoln, was slain, and Lambert Simnel captured, he was dubbed a knight banneret June 9, 1487 (Metcalfe, p. 13). He was nominated a commissioner for gaol delivery at Leominster on February 12, 1489 (W. Campbell, 'Mat.' ii. 482), and was sheriff again in 1492. He took part in the festivities at Court on the creation of Prince Henry Duke of York, in November 1494 (J. Gairdner, 'Letters and Papers of Richard 3 and Henry 7' [1861], i. 403). He was nominated on the Commission of the Peace for Herefordshire in the first year of Henry 8 (S. P. Dom. Hen. 8, i. 646, 675), and again on January 28, 1513 (*ib.* 3686); and was pricked sheriff of the county November 9, 1510 (*ib.* 1316). He died before July 20, 1514, when the stewardship of certain lordships in Herefordshire was granted by Henry 8 to a successor (*ib.* 5272). His son and heir Thomas received livery of his lands on November 14, 1514 (*ib.* 5596). Sir Richard's will was proved in 1514 as

of 'Hereford Cathedral' (J. C. C. Smith, 'Index,' i. 166). He married Elizabeth, daughter of Henry Norrys, marshal of the hall to Henry 7. R. Atkyns, l. s. c.; cf. W. Campbell, 'Mat.' i. 177.

³ Sir Walter Baskervyle or Baskerville, son of Sir James Baskerville, 'an active partisan of the House of York' (W. H. Cooke, 'Continuation of Duncumb,' iv. 157), who in 1492 settled upon Walter, or Walter's son James and their heirs, the manors of Eardisley, Standune, Letton and Orcop, Herefordshire. Sir Walter Baskerville was sheriff of the county in 1470. In 1496 he was nominated a commissioner of subsidy for the county (Rot. Parl. vi. 518). He was dubbed K.B. in 1501, on the occasion of the marriage of Arthur, Prince of Wales, to Katharine of Aragon (November 17). (W. C. Metcalfe, 'Book of Knights,' p. 34.) He is said to have died in 1505 (Cooke's 'Duncumb,' l. c.), but this case proves that date to be erroneous.

⁴ Younger brother of Cardinal Morton, knighted after November 12, 1522, on which date he was pricked sheriff as Rowland Morton, Esquire (P. R. O. 'List of Sheriffs' [1898], p. 61), of The Grange, Bosbury, Herefordshire (Cooke, *ib.* p. 118). Nominated in 1503 a commissioner for Herefordshire to raise the aid granted to Henry 7 on the marriage of Arthur, Prince of Wales (Rot. Parl. vi. 542). Married first Elizabeth Pembruge, through whom he acquired the manor of Mansel Gamage (Cooke, l. c.): Sheriff of Herefordshire 1522 (List of Sheriffs in J. Duncumb, i. 145); died 1523, leaving a son and heir, Richard Morton (*ib.*), by his second wife Sibilla, daughter of — Monington, co. Hereford (J. Hutchins, 'Hist. of Dorset,' ii. 594).

⁵ Sir John Lyngen the younger was of a Yorkist family, his father, Sir John Lyngen, having been knighted by Edward 4 upon the field of Tewkesbury (W. C. Metcalfe, p. 3) on May 3, 1471. The family had held the manor of Sutton Freene, Herefordshire, since the reign of Henry 3 (J. Duncumb, ii. 183), and also held that of Kenchester (W. H. Cooke's 'Continuation,' iv. 110). The son evidently inherited the politics of his father if it was he who was nominated by Richard 3 on December 10, 1483, a commissioner for Herefordshire to inquire into lands belonging to the supporters of the Duke of Buckingham's abortive rising in the foregoing autumn. (Pat. Rolls 1 Richard 3, p. 392.) It is probable, however, that both deserted the cause of Richard 3, for the father was sheriff of the county in 1486 (W. Campbell,

or ij at the leste of the same Countie where svche Ryotte is com-
mytted vpon Complayntte to them thereof made schall inquere of the
same Ryotte within a monyth then nexte folowyng And in case
soche Ryotte assemble or Rowtte may not be Founden then iij or ij
of the said Justes att the leste with the scheryff or vndyrscheryf
within a monyth then nexte ensuyng certyfy the kynge and his
Councelle of all the dede and circumstans of the same as by the said
estatute more playnely apperyth⁷ So it is that vppon Complayntte
made to vs the seid Justices by the Custos and vicaryes of the quere
of the Cathedrall Churche of hereford that henry Chyppenham of the
Cite of hereford in the Counte of hereford Squyer now maire of the
same Cite⁸ gethyrde vnto hym othyr misdoers to the nowmbre of xij^c
persons the xvijth day of Juny in the xxith yere of our souerayn lordes
Reigne kynge henry the vijth⁹ at hereforde aforesaid in the Counte
aforesaid assembled them self with wepons invasyue that is to say,
byllys¹⁰ and knyus and then and there in a medowe called Croked
lesow beyng in the possessyon of Thomas Morton¹¹ Clerke Richarde
Judde¹² Clerke Wyllyam Glasyer and othere, entyrde and the grasse
there growyng mowede and caste down as by the said Complayntt
was aftermyd Accordyng to the wych Estatute and Complayntt
We the said Justices with other the xiiijth day of July the yere
abouesaid at hereforde aforesaid sate and enquierd of the premysses
accordyngly, And by the enqueste then and there empanellyd and
chargyd for thenquere of the premysses nothyng before vs was
founden For the wich we the said Justes and scheryff accordyng to
the tenure and fourme of the same Estatute certyfy your highnes

⁷ 'Mat.' ii. 146). John Lyngen the younger was sheriff in 1497, 1505 (December 1), 1516, 1520, and 1528, P. R. O. 'List of Sheriffs' (1898). He was a commissioner for raising the aid in Herefordshire on the marriage of Arthur, Prince of Wales, in 1503 (Rot. Parl. vi. 542). He was dubbed Knight of the Sword on the creation of Henry, Prince of Wales, February 18, 1503 (W. C. Metcalfe, p. 40). He married in 1512 or 1513 Eleanor, daughter and heir of Thomas Myldwater, of Stoke Edith (Duncumb, ii. 184), and died in 1530, leaving a son, John (ib.).

⁸ 13 Henry 4, c. 7 (1411).

⁹ The significance of this certificate was that by the statute it was made equivalent to presentment by a jury (ib.). Cf. also p. 145, n. 35, and *Introd.*, p. li.

¹⁰ Mayor of Hereford in 1501 and 1505-6 (J. Duncumb, i. 366). In the reign of James 1 the Mayor took office at Michael-

mas. Ib. 357.

¹¹ 1506.

¹² See p. 165, n. 5.

¹³ Thomas Morton, Archdeacon of Hereford 1493-1511 (J. Le Neve, 'Fasti' [1854], i. 481); perhaps the same as the rector of Lanteglos, near Camelford, to which living he was presented on October 6, 1490 (W. Campbell, 'Mat.' ii. 513); probably a connexion of the Cardinal, in whose family Thomas was a frequent name (see J. Hutchins, 'Hist. of Dorset' [1863], ii. 594). His will was proved in 1511 as canon residentiary of Hereford and of Bosbury, Herefordshire, which associates him with Rowland Morton (see n. 4, *supra*). J. C. C. Smith, 'Index,' ii. 378.

¹⁴ Richard Judde, prebendary of Hereford (qu. 1476; see J. Le Neve, 'Fasti,' i. 497); Treasurer of the Cathedral June 22, 1511. Will dated May 11, 1512; proved June 15, 1512. Ib. p. 490.

and your most honorabull Councell the vj day of Auguste the yere abouewretyn that the said henry meyre of the said Cite beynge accompanyde with one Thomas Rowse his Swyrdeberer Waltre melyn Jamys Ayleman and John peyynter his Sargaunttes the said xviijth day of Juny the yere and place abouewretyn entyrde in to the said medow as in the pretensyd ryght of Thomas Chyppenham¹³ brother to the said henry and caused one Gryffyth Clemente and other to mow and Cutte down the grasse there growynge wich is the hole dede and circumstans as nere as the said Justices and scheryff canne vnderstande or know.

Indorsed. Liberatum fuit domino Cancellario Anglie apud Kiow¹⁴ per manus Rowlandi moreton vj^{to} Augusti anno xxi Henrici vii.¹⁵

FURNIVALLYS IN, PRINCIPAL &c. OF, v. JOHNSON AND OTHERS.¹

A.

To the kyng our souerayn lord

1507 In moste humble wise sheweth on to your gracijs Hyghnes your pore subiectes and continuall oratours John Appliard² of London Gentilman³ Prynceypall of Furnivallys In⁴ in Holburne and the

¹³ Qu. whether this was Thomas Chip- ham (sic) who became prebendary of Hereford July 16, 1512 (Le Neve, ib. p. 519). Presumably this was a quarrel about some land belonging to the cathedral.

¹⁴ Kew was included in the royal manor of Richmond. The house was built, according to Leland, by a steward of the household of Henry 7. See W. E. Brayley, 'Hist. of Surrey,' ed. E. Walford, p. 304.

¹⁵ 1506.

¹ S.C.P. Hen. 7, No. 26.

² John Appliard of London, perhaps John Applyarde of Alhalowes, Honey Lane, London, and Carlton, Norfolk, who died at Calais, and whose will was proved in 1537 (J. C. C. Smith, 'Index,' i. 16). There was a family of the name in Norfolk, whose principal seat was Brakon or Braconash. The will of John Appleyard or John Appliarde the elder esquire of Brakon was proved in 1498 (ib.). John Appleyard the younger, the date of whose death Blomefield does not mention, died without issue, and it is probable that the principal of an inn of Chancery was unmarried. The manors of Brakon and Carlton were held together. See F. Blomefield, 'Hist. of Norfolk' (1806), v. 84, 103. There was, however, also a family of this

name settled at Burstwick-in-Holderness, one contemporary member of which was named John. Poulson gives a pedigree of this family. 'Hist. of Holderness' (1841), ii. 365.

³ See 'Select Cases in the Court of Requests' (Selden Soc. 1898), p. 147.

⁴ So called from Joan de Furnival, daughter and heiress of William last baron Furnival (d. 1383), who married Thomas Nevill, brother of Ralph first earl of Westmoreland. W. Herbert, in his 'Antiquities of the Inns of Court and Chancery' (1804), p. 324, speaks of Furnival's Inn as though it first became an Inn of Chancery when purchased by Lincoln's Inn in 1547. He is followed by Foss, 'Lives,' v. 288. Two engravings of old Furnival's Inn are to be seen in Herbert, pp. 324, 327. But it is mentioned in the Black Book of Lincoln's Inn, of which it was evidently then a dependency, as early as 1496, when an account was passed of '11s. 5d. for a refecton given to the society of Furnevall's Inne at Christmas' (1495) by order of the then governors (Black Books, i. 111). Lincoln's Inn nominated its readers and principals (ib. 172, 235), but the name of Appleyard does not occur before 1545, in which

Company of the same place that wer as on John Irton⁵ & on Jamys Drylond⁶ Gentilmen and felowys of the seyd Company the monday be fore twelffe day last passyd wer in pesabull maner Comyng to the seyd place of Furnivalles In aboute vij of the cloke of the nyght⁷ in Holburne a fore seyd on Humfrey Hadderton⁸ Holt & Holford⁹ Richard Bekynsall Raff Holand Richard Cony & Roger Johnson seruantes¹⁰ and dyuers odyr wyth the reuerent Fadyr Jamys Bysshoppe of Ely¹¹ than and there assembled and assocyat wyth

year a John Appleyard was admitted to Lincoln's Inn (Lincoln's Inn Admissions, i. 54). Furnival's Inn paid 3*l.* 6*s.* 4*d.* yearly rent to Lincoln's Inn (W. Herbert, 'Antiquities,' p. 325). The site of Furnival's Inn was sold, and presumably the Society dissolved in 1853. C. Welch, 'Modern Hist. of the City of London' (1896), p. 205.

⁵ John Irton, junior, was admitted to Lincoln's Inn on March 26, 1507 (ib. i. 32). This would be after residence at Furnival's Inn (see W. Herbert, 'Antiquities' &c. p. 325). On his admission to Lincoln's Inn he was 'pardoned five vacations, the remainder to be kept within three years,' an indication that this was so (Black Books, i. 145). There was a family of considerable estate of this name at Irton in Cumberland, in which the name John was common, W. Hutchinson, 'Hist. of Cumberland' (1794), i. 573.

⁶ A student named Dryland (Christian name unmentioned) was admitted to Lincoln's Inn in 1431, but this is too early a date. The will of a James Dryland of Davyngton, Kent, was proved in 1467 (J. C. C. Smith, 'Index,' i. 179), but this is also too early. This James Dryland had purchased the manor of Davington in 1443, and left an only daughter, through whom the seat came to the Walsinghams (E. Hasted, 'Hist. of Kent' [1782], ii. 441, 720 g. 727). James was not a very common Christian name in England at this period, and the James Drylond of this case was probably one of this family.

⁷ One of the rare examples of the Anglo-Saxon *ȝ* that I have met with in the Star Chamber documents. 'We find "gh" in olden English often represented by *ȝ*, as in *cȝte*, *wȝt*, *mȝte*, *fȝte*, *broȝte*. . . . The sound of this "gh" was originally that of the High Dutch "*ch*"' (Maetzner, 'An English Grammar,' translated by C. J. Grece [London, 1874], i. pt. i. § 1, p. 156). Here the *ȝ* has been retained, together with the 'gh,' doubtless to mark the guttural sound.

⁸ Otherwise Atherton. See n. 10, *infra*, and B, p. 241, *infra*.

⁹ These names probably stand for those of three persons, as appears from B, p. 241,

infra. Double Christian names were rare at this date, though as many as twenty-eight have been noted belonging to the fifteenth century. See 'Notes and Queries,' 9th ser. vi. 217, and Goryng v. Northumberland, Earl of B, p. 98, n. 1, and p. 206, n. 37.

¹⁰ This does not necessarily imply that they were of humble origin. They were probably young gentlemen attached to the bishop's household, as Sir Thomas More was to that of Cardinal Morton. Shakespeare in 'Henry 8,' act ii. sc. 1, makes Buckingham say of himself and his father: 'Both fell by our servants, by those men we loved most.' The betrayer of this duke was his cousin Charles Knyvet, and the betrayer of his father was Ralph Bannister of Lacon Park, near Wem, esquire, lord of the manor of Lacon (S. Garbet, 'Hist. of Wem,' 1818, p. 363), of an ancient family (W. Hutton, 'Battle of Bosworth Field' [Birmingham, 1788], p. 18), yet both were styled 'servants.' The bishop, being son of Thomas Stanley, first earl of Derby, a great landowner in Lancashire and Cheshire, would naturally have the sons of families belonging to these counties in his household. Hadderton or Atherton (see B, p. 241, *infra*) would be a member of the family of Atherton or Aderton of Aderton. There were two families named Holt or Houlst, at Stubbleley and Gresillhurst (Benalt's 'Visitation of Lancashire' [1533], Chetham Soc. xcvi. [1876], pp. 47, 53, 86). The Holfords of Holford were a Cheshire family (Harl. Soc. xviii. 125). Bekynsall or Becconsall was another Lancashire name. There was an influential family of the name of Holland settled at Clifton, Lancashire (Benalt's 'Visitation,' Cheth. Soc. cx. p. 214). Dugdale's 'Visitation' (1664-5) gives Johnson of Preston (ib. lxxxv. p. 164). Cony was a Lincolnshire name (Harl. Soc. iii. 10). Cf. also F, p. 251, n. 9, *infra*.

¹¹ James Stanley, Bishop of Ely 1506-1515. From 1485 to 1509 he was warden of the collegiate church of Manchester, where he lies buried. His house was notoriously not a model of decorum. See 'Dict. Nat. Biog.' and C. H. and T. Cooper, 'Athenae Cantab.' (1858), i. 16.

othyr ryottys parsons to the numbere of xiiij or a boue with Swerdys and Buklers and other abymentes¹² of werre in ryottys maner than and there wyth out ony occasyon gevyn made a sawte apoun the seyd John Irton and the seyd Jamys Drylond and than & ther Stroke the seyd John Irton and hym sore wowndyd in hys lefte Sholder wer vppon the seyd John Flede and for suerte of his lyue enteryd in to an hous were apoun the seid mysdoers pursuyd the seyd Irton to the hous and there vyolently brast vp the dorys and the wyndows and there hurt & wowndyd the seyd Irton so that they lefte hym in parell of deth wervppon the sayd Bysshoppe for thesaute of hys seruantes in the same assawte agreyd and payd to te¹³ seyd John Irton for the grevyus hurt on to hym done xiiij li. in money and other auantages¹⁴ yerele incresyng to the seyd Irton to the value of v marckes¹⁵ all wych demenour not wyth standyng the seyd Hadderton and the seyd Johnson consederyd¹⁶ to gedyr with dyuers and many of the houshold seruantes of the seyd Bisshopp haue causyd¹⁷ dyuers and many tymys sen the seyd affray haue yeuyn euyl occasyon and quarelyng wordys on to your seyd oratorys and yet dayly doo that your seyd oratours may not pesably ne quyetyly pas by them wer appon thursday at nyght⁷ 18vj May anno xxij^{do} Henrici vijⁱ¹⁸ last passyd¹⁹ twayn of the seyd felechypp of Furnyvals In namyd moyle and myddylmore were comyng to the plase warde of Furnyvalles In and the seyd myddelmore Beryng vndyr hys arme a bolsterr for hys bed wyth the keys of hys Chambyr in hys hand and soo comyng iiij of the seyd mysdoors houshold seruantes of the seyd Bysshopp lyng in wayte wyth swerdys and boclers issuid out of bak lane²⁰ anexte the seyd

¹² See p. 115, n. 12.

¹³ Sic.

¹⁴ See p. 251, n. 13.

¹⁵ 3*l.* 6*s.* 8*d.*

¹⁶ Sic, with a long s, probably intended for 'confedered.' The substantive 'confederey or confedre' occurs at this date. See J. A. H. Murray, 'New English Dict.' ii. (1893), s.v.

¹⁷ Sic. The subsequent construction suggests that it had been intended to strike these words out.

¹⁸⁻¹⁹ These words interlined.

¹⁹ 1507.

²⁰ Stow ('Survey' [ed. 1754], ii. 817) mentions Back Alley or Back Hill, Hatton Wall. Back Hill is shewn in the large Ordnance Survey (1896) of 88 ft. to an inch, as a lane running northwards out of the Clerkenwell Road, almost opposite the northern end of Hatton Garden. If Back Lane and Back Hill are the same, the precincts of Furnival's Inn must have ex-

tended to the Clerkenwell Road. Both the map of Ralph Agas (c. 1591) and that of W. Faithorne (1658) show a large garden at the back of Furnival's Inn extending as far as that road. This was, however, probably the famous garden of Ely House then contiguous to the south-east corner of Furnival's Inn, for less than half the width of the garden is continuous with the Inn. Outside the western wall of this garden Agas shews a strip running down to the road, its western side, designated by bushes, forming the eastern side of 'Liver Lane,' where Brook Street now is. This western side is in a line with the western wall of the Inn. It may therefore possibly have gone by the name of Back Lane, being in fact a lane at the back of the Inn. See also Ogilby and Morgan's map, published in 1677 (facsimile, edited by C. Welch, 1895), where Back Hill is clearly shown. In Agas's and Faithorne's maps it does not appear, but the north of the Clerkenwell Road was in their time country.

Furnyvalles In and than and there ryotttysly assaute made appon the seyde moyle and myddylmore and draue them from the seyde lane onto sych tyme that they were wyth in the Barrys of the seyde Furnyvalles In and there sore hurt & woundyd the seyde myddylmore so sore that he was in joberby of hys lyue and yet ys were appon the seid myddylmore came Ronning in to the seyde In Cryyng out for helpe and in ry3ght⁷ petyus wyse seyde that he had hys dethys wownde were appon dyuers of your seyde oratours seyng the seyde myddylmore so sore bledyng and in so grete parell³ of death hastely issuyd out of the seyde place to make pursute aftur the seyde mysdoors to take them and Brynge them to prysyn there to remayn in sauegard tyll yt my3ght⁷ be forther knowyn wedyr the seyde myddylmore shuld of hys wowndys dye or noo and for as muche as dyuers syche mysdoors and onthrifty parsons vsyd Comynly to resorte to the hous of on cawlyd modyr Johane dwellyng in holburne²¹ aforseyd your seyde oratours for the forseyd purpose enteryd into the seyde hous and for as muche as they fond no parsons there to wom they had suspecte of the seyde Ryottys²² demenour the(y) returned home ageyn in pesabull maner and all now²³ wythstondyng dyuers euyll dysposyd parsons of the houshold of the seyde Bysshoppe yet dayly sesnott to quarell as wel with dyuers of your seyde oratours in dyuers places were by your seyde oratours be gretly trobelyd, to the grett hynderance and inquietyd & to the vttyr vndoing of the seyde company of your seyde orators wythe out your gracyus fauour be to them Shewyd in concyderacon were of yt may lyke your hyghnes to commaund the seyde mysdoors to appere be fore youre most honourabull Councell and to a byde syche dyrecon as there discrete wysdomys shall thyng conuenient and thys in the weye of pety and your seyde Oratours and he shalle deyly prey to god for the preseruacion of youre most noble & roiall estate.

Indorsed. John Appliard querens seruientes Episcopi Eliensis

Stow, in his Survey, says of the Inn: 'It hath a handsome garden behind' (ed. sup. cit., p. 729). The engraving of it in the edition of 1754 shows that the garden was then formed out of the south end of the strip above mentioned, across which at the north end of the garden buildings had been erected. As 'Liver Lane' does not elsewhere occur I incline to identify it with Leather Lane, and

to infer that Agas has marked it by mistake to the west instead of to the east of the Inn.

²¹ Not at 'The Crown.' See p. 250, infra.

²² 'Great riottes and unlawfull assembly' are among the offences assigned by the statute 'Pro Camera Stellata,' 3 Hen. 7, c. 1, to this Court.

²³ Apparently for 'non' or 'not.'

- B. Thansawre of Roger Johnson Richard Baconsaw and Richard Coney and other named in the seid byll of compleynt to the byll of John appliard principall of Furnyuall Inne and other the Company of Furnyuall Inne in holburne.

The seid Roger and the other personz named In the seid byll off Complayntes sey the seid byll ys concerten and devysed by subtell and Crafty Imachynacionz made to thentent to colour and kepe from opyn knowlege their manyfold riotes and other gret misdemenours nightly Committed and down aswell by nyght as by day by the seid James Dryland, myddelmore, moyell, and other of the seid company of Furnyuall Inne which be socoured and mayntened¹ by the seid pryncipall hauyng perfyet knowlege of their such seid misdemenours which they Styll contynue and by likly hode wyll do to the gret daunger of the seydes defendauntes and also of other the Kynges true subgettes of their lyffes resettyng² or Contynuyng in holbourne negh theym specified Jn the seid byll of Complaynt at x of the Clok Jn the euynyng and past for they seid that homfray atherton holte and holford were departyd from london Jn to lancastre Shyr Somme of theym x wekes affor the seid affray made the seid thursday last past and it is a moneth and more Syn any of the seydes humfra atherton holte and holford was last In london. Neuer the lesse for forther vnswar they say that the seid monday³ specified in the seid byll of Complaynt at x of the Clok in the euynyng and past³ the seides Richard Couney and oon humfrey atherton in peasable maner went from their lordes Byschopp of Ely place In holbourne affore seid towar a Comyn Inne Wher theygh vsed to be lodged, that is to sey at the sygne of the Crown⁴ and within iiij Roodes of the gates of the place of the seid Bysshopp of Ely and Within the Renttes libertyes and franchises⁵ of the seid Byschopp. Came James Dryland, as Capteyn of all the Riotous Companye of Furnyvall Inne, and other Sundry mysrulyd personz with theym to the nnumber of x personz and then and there with there drawn

Cronykil' (*circa* 1425).

³⁻³ Interlined.

⁴ The Crown is mentioned in Stow's 'Survey' (ed. 1754), ii. 756, as an inn on Holborn Hill.

⁵ 'This Ely House with the bounds of it claimed a privilege of express exemption from the lord mayor's jurisdiction.' The claim was tried in the Star Chamber in 1567, and judgement given on June 9, 1570, in favour of the City. See Stow's 'Survey,' i. 724.

¹ This is a term of art, to bring the case within the statutory jurisdiction of the Star Chamber, the Act 'Pro Camera Stellata' reciting the evils arising from 'onlawfull mayntenanancies.' Nevertheless, it appears from the language of the statutes against Maintenance that the term is properly applied only to legal proceedings. See Coke, Second Institute, p. 212. Cf. p. 146, n. 38, *supra*.

² I.e. Residing. Reset, abode, is noticed in the 'Encyclopædic Dict.'; also in Jamieson's 'Scottish Dict.,' as occurring in Wyntoun's

Swordes and Buklers ⁶ vppon the seid Richard and humfrey made a Riottous assaute and the seid humfrey appon the for ther part of his hede with their Swordes greuwysly Smote hurt and Wondyt without any occasyon or cause gyffen by ayther of theym to any of the seid misdoers and when the seid Dryland hade perfyet knowlege that he and his seid Riottous Compenny hade wondet the seid Humfrey atherton So that he was in perell of his lyve as the seid Dryland and other Riotours with hym affor tyme haue vsed to do at their lyk gettinges ⁷ and quarelles pykyng to the kynges subgettes thynkyng no euyll in the nyght tyme wherby mischyff and murder hath insued In tymes past he and his seid riotous Company ⁸ fled & withdrew theym self⁸ and the Nighburs there a bouttes heryng of the seid riote and affray made a great noys and oute Crye⁹ opou the seid mysdoers opynly in the Strete and theruppon the seid Roger Johnson Richard

⁶ See *Introd.*, p. cix, *supra*. By the *Statuta Civitatis London*. 13 Ed. 1 (1285), the carrying of swords and bucklers in the City was expressly forbidden. § 1: 'Primement pour ceo que multz des mals com des murdres, Robberyes, e homycides ont este fetz ca en arrere deinz la Citee de nuyt e de Jour e gentz Batues e mal tresetes, e autres diverses aventures de mal avenuz encontre sa pes; Defendu est que nul seit si hardi estre treve alaunt ne waeraunt [vagrant] par my les Ruwes de la Citee apres Coeverfu par sone a Seint Martyn le graunt a Espeye ne a Bokuyler ne a autre arme pour mal fere ne dount mal supecion poet avenir ne en autre maniere nule, sil ne seit graunt Seigneur ou aultre prodome [prudhomme] de bone consaunce, ou lour certayn message [messenger] que de els serra garaunty que vount li un a lautre par conduyte de Lumere.' The penalty was arrest by the watch, imprisonment for the night and punishment by the mayor or aldermen; but presumably the persons complained of here were outside the City gates. In that case they were within the Statute of Northampton (2 Ed. 3, c. 3) of 1328 by which it was provided that no one should bring a force in affray of the peace, nor go nor ride armed by night nor by day . . . upon pain to forfeit their armour to the King and their bodies to prison at the King's pleasure. This statute was affirmed in 1379 to be 'toutes voies en sa force' (2 Ric. 2, st. 2, c. 2).

⁷ Usually spelt j—, from to 'jet,' to jostle or nudge. Halliwell, 'Dict. of Archaic &c. Words' (1850).

⁸⁻⁹ Interlined.

⁹ Note that they are not said to have 'levied hue and cry,' which was the duty

of the constable; see Coke, 3rd Inst., c. 52, p. 116, where he refers to Rot. Parl. an. 6 Ed. 3, num. 6. But Coke, citing 8 Ed. 2, cor. 395, says, 'If a man be present when a man is murdered, or robbed, and doth not endeavour to attach the offender nor levy hue and cry, he shall be fined and imprisoned.' This points to a common law right of any one to raise hue and cry himself. The Laws of Canute (ii. 29) enjoin upon any person meeting a thief the duty of doing so (R. Schmid, 'Die Gesetze der Angelsachsen' [1858], p. 286). Bracton iii. 10 leaves the point doubtful, but there can be little question that, in accordance with the practice of primitive law to sanction the personal exaction of satisfaction, the right was anciently universal, and as a matter of fact, in Eyre Rolls of an early time, people are frequently punished for not raising hue and cry. Certainly the City of London enjoyed the right by an ordinance of Edward 1: 'And the King doth will and command, to preserve the peace in his City, that if any felony shall be committed within the City or any offence against his peace, each person who shall be near when such offence or felony is committed within the City, or who shall hear, or see, or know of any offence against his peace or any felony committed, shall arrest or attach such felons or transgressors to the utmost of his power; and if he have not power to do the same forthwith, let him raise hue and cry against the misdoers. Upon which hue and cry, the King doth will and command that all those who shall be near and shall hear such cry shall come upon such cry for the taking and arresting of,' &c. Liber Albus, p. 244 (13 Ed. 1).

(Bekyns)all and other of the houseold Seruauntes of the seid Byschopp heryng of the premysses issued out of their lodgeynges and pursued to haue taken the seid (Drylan)d¹⁰ and to haue Broght hym to ward and sure kepyng vnto that hit might be knowen whether the seid Humfrey shuld dye of the seides^{* 11} Strokes and Wondes or not and as they wold haue entred the chamber of oon Henry Barbur where they were enfourmed that the seid Dry(land wa)s¹⁰ fled and a bode then and there oon John Irton with a drawn Sword yn his hand made there a newe assaute and affray
 * d¹⁰ * 10 * 10 and his seides felowes and
 there sore hurte and wondet dyuers^{* 11} * 11 and
 if the seid Irton any hurte hade hit was in his^{* 10}
 * 10 assault * 10 * 10 (comm)etted¹⁰ and doone in maner
 and fourme as is affor seid. And forther they say that on
 Thursday next affor the Fest of thassencyon¹² * 10 * 10
 l * 10 * 10 (a)bowt x of the klok in the evynyng
 iiij Boys gromes in household with the seid Byschopp in peasable
 maner went fro theyr^{* 10} * 10 * 10 oone mergetes
 hardyng where they were vsed to be lodged and ij of theym were
 entred within their seid lodgeyng and as the^{* 10} * 10 * 10
 theym folowed then and there the seid mydelmore and moyell ley in
 wayte sodenly came vpon the other ij or they entred into theyre seid
 * 10 * 10 g * 10 with drawn Swordes and Buklers in their handes
 and then and there made a Riottus assault and affray apon theym
 intendyng to bete and murdour the seides ij boiis and asked what
 knaves were there and so the seid ij gromes wer fyne¹³ for the sauege¹⁴
 of their lyues to draw out their weppyns and to defend theym selff
 and so if the seid mydelmore any hurt hade hit was in the assault of
 the seid moyell and middelmor and in the deffens of the seid ij gromes
 Without that the seid Dryland and his seid riottous Company at the seid
 first affray were goyng homwardes toware Furnyvall Inne as by the
 seid byll of Compleynt is surmyttyd, for they were after Soper tyme
 the seyde euynyng jettyng¹⁵ and hoveyng¹⁶ in the strett and lying in a
 wayde¹⁷ to bete and murder both the seruauntes of the seid Byschopp
 and other the Kynges Subgettes walkyng late in Holbourne for
 thaccomplyschment of their vnthryfty and riottous appetites as is

¹⁰ MS. torn.¹¹ MS. indecipherable.¹² I.e. May 6, 1507. See p. 239, supra.¹³ A variant for fain. See J. A. H. Murray, 'New Eng. Dict.' (1901), s.v.¹⁴ Salvage.¹⁵ To 'jet' is here used in the sense to

swagger. See Murray, s.v.

¹⁶ 'Swelling up.' 'The earth swelleth & houeth as it were with a leauen,' quoted by Murray s.v. from Holland, 'Pliny,' i. 500 (1601).¹⁷ Wait. See p. 115, n. 9.

affor seid and Without that that the seid Humfrey atherton with x persons with hym with swordes or Buklers or any inhabilmentes off wer made any riott or assaut vppon the seid Irton or Dryland as is also surmytted by the seid byll and Without that the seid Irton any hurt hade whech (e)aised¹⁰ hym to take the seid hovse for the sauegard of his lyve Or that the seid Humfrey or eny other Seruauntes of the seid Byschoppe any dore or wyndaw (vio)lently¹⁰ brast¹⁸ vp or any hurt ded to the seid Irton in any other maner or for any other cause then is affor rehersed in this present Answar And without that (the)¹⁰ (s)eid¹⁰ B(ys)choppe¹⁰ for any defautes of any his seruauntes towchyng the same assaut agreed or payed to the seid Irton for the hurtes to hym down the somme xiiij li. or other *

*¹⁰ to the seid Irton incressyng yerely to the value of v markes¹⁹ as the seid principall, Dryland, moyell and the other of that Company full *¹⁰ and sklanderwysly in their byll of Compleynt hath surmitted but wold full gladly lyff in quiet and rest as a spirituall prelet of the Church iff the riotous Cumpany of Furnyvall Inne wold pyke no querelles apon hym and his seruaundes and Without that the seid atherton or Johnson or eny other seruauntes to the seid Byschoppe sith the seides affrayes or affore any occasyon or querell made or any word hath spoken so that the seid Cumpany may not peassable cumme and goe to and fro to the seid Furnyvall Inne at their pleasure as is also feyned and surmytted in the byll of Cumpleynt and Without that the seid Roger Johnson or any other seruaunt or seruauntes of the seid Byschoppe ley in wayte or any assaut made vppon the seid moyell and middelmor or on ayther of theym or that any of the affore named iiij gromes any assaut made or were in any bake lane²⁰ or in any other place bot goyng to bedde in to their lodgyng in the house of the seid mergrett Hardyng where they were vsed to be logged as is also supposyd by the seid byll and Without that that the seid middelmor was or is in any suche perell of death as they in their byll haue surmysed or that theyr brekyng of the house whech they name to be moder Jane house was to any suche intent as they in theire byll hath surmysed or yet to the knowlege of any of the seruauntes of the seid Byschopp that eny vnthyrfy Compeny comynly vsed to resort vnto the seid house and Without

¹⁸ Burst.

¹⁹ See A, p. 239, n. 15, supra.

²⁰ This looks as if Back Lane was interpreted by the defendants as a descriptive term rather than a proper name. If it be the lane described as running north-

wards from the west end of the back of Furnival's Inn, it might very well be called Back Lane by the members of the Inn, but unknown as such to the bishop's household.

that that any of the howshold Seruauntes of the seid Byschoppe euer dyd make or beggyne any querell in any place with any of the Compeny of Furnyvall Inne or any other person wherby that they or any other personz be trowbult to theire hynderance and inquietyng or vtter vndoing of the seid Compeny as they full Subtelly by greatt Imagynacion and Craft vntrewly and sklanderwysly in their byll haue alleged to thentent that they by Colour of excuse wold conteneu their mischys wyce²¹ and riottous demenours in maner and fourme aboue rehersed and after lay it from theym selff to the charge of other the kynges Subgettes wylling to lyff in rest and quietnes, all which maters the seydes personz be redy to *²² proue as this Court shall a ward and pray to be dysmyssed out of this Court and that the seid principall & Felows of Furnyvall Inne may be bounden by Recognicians to be of gud beryng enendes²³ the seides personz and other the kynges Subgettes and els the seides principall and Felowes wyll if they may do somme myschyeff shortly here after to the seid personz now defendauntes.

Indorsed. Examinacio patet in libro annexo²⁴ capta xvj die maii anno xxij²⁵ Henrici vij^{mi}

Richard Beconsall	}
Richard Coney	
Roger Johnson	

COLTHURST *v.* FURNYVALLS INN, GENTLEMEN OF.¹

c. To the most Reuerend (Father)² in god Wylliam Archbyshop of Canturbury and Chaunceler of England.³

Humble sheweth and compleyneth to your grace your dayly oratour John Colthurst grome of the Stabull with my lord of Ely that Wher he and John Walmysley William metecalff and Richard Watson on thursday next after the fest of Philyp and Jacob last past⁴ a Bowt x

²¹ A long s intended probably for f. Mischievous.

²² MS. mutilated possibly before being used by the scribe.

²³ I.e. anent, towards. This form is not noticed by Murray. It is for the more common 'anendes.' See s.v.

²⁴ Missing.

²⁵ 1507.

¹ S.C.P. Hen. 8, vol. x. 122. Sorted by mistake among the cases of Henry 8's reign.

² Parchment torn.

³ William Warham or Wareham, archbishop of Canterbury, 29 November, 1503 (J. Le Neve, 'Fasti,' i. 24), lord chancellor January 21, 1504; resigned the chancellorship December 22, 1515; died August 22, 1532. 'Dict. Nat. Biog.'

⁴ The feast of St. Philip and St. James is May 1, which in 1507 fell on Saturday. This is, therefore, the Thursday, May 6, 1507, variously designated in A and B. See F, p. 251, *infra*.

of the klok at after none on the same day went in peasable maner fro their saides lordes place to the house of one merget Hardyng in Holburne where they were vsed to be lodged and as they were enterying into theire seid lodgyng the seides John Walmysley and Wyllyam metecalff beyng within the seid house came ij Gentylnmen of Furneualys Inne the oone called mydmore and the other moyell in Riottous maner with Swordes and Bukelers and callyd to youre Oratour and asked of hym what knaves were there and ther schulderyt⁵ youre seid oratour so that his hat fell downe ther to the grounde and youre seid pore Oratour vnsward and seid he knew no knaffe there and furthwith both the seid Gentylnmen drew owt theyr Swordes and cruelly Stroke at youre seid pore oratour mony and dyuerse great Strokes to his greatt fere and jeopardy of his lyffe so that he for drede to haue bene by theym murdred and Slayne fled and with drewe hym selff and after ward the seid moyell cryed and called oute, the Compeny of the seid Furneualles Inne and the seid Principall and other of the seid place and of Bernardes Inne⁶ and other to the nowmber of xl personz or therabowtes in Riottous maner with Byllys Clubbes Swordes bukkelers and knyffes came to the house of oone John Bradley nighe the gatez of the seid Byschopp of Ely.⁷ place and⁷ by force and myght Brake and entred therin to the entent to have murdred and Slayn youre seid oratour yf they hade founden hym there and yet the seid Riottous personz not here wyth contented bot furthwith went to the house of oone John Browne with force and armes and in Riotous maner to the entent to haue executed theire myschyffuous myendes in maner and fourme as is affore seid and be sydes this oone Fayrchylde and oone Tyndall of Bernardes Inne on the Fryday next after in the nyght tyme came and Soght your seid pore oratour in the afforeseid house of the seid John Browne as maynteners of the affore seid Riottous and misrellyd personz and ther oppynly inquired whether any of the Byschopp of Ely seruantes were there and then and there hade murdred and Slayne a Gentylman called Henre Brych⁸ if that

⁵ Shouldered.

⁶ Bernard's or Barnard's Inn, on the south side of Holborn, was second in antiquity as an Inn of Chancery to Thavies Inn. It was sometimes called Mackworth Inn from John Mackworth, dean of Lincoln (1412-1451), by whose executors it was conveyed in 1453-4 to the dean and chapter of Lincoln to find a chaplain to celebrate divine service in the chapel of St. George in Lincoln Cathedral. 'Beeing in the occupation of one Barnard, at the time of the conversion thereof into an Inne of

Chauncery, it beareth Barnard's name still to this day. The arms of this house are those of Mackworth.' J. Stow, 'Annales,' Appendix of the Universities in England (1632), p. 1075. It was sold in 1892 to the Mercers' Company for their school removed from College Hill, Cannon Street. C. Welch, 'Modern History of the City of London' (1896), p. 436. See further W. Herbert, 'Antiquities of the Inns of Court and Chancery' (1804), pp. 349-51.

⁷⁻⁷ Interlined.

⁸ Also a Lancashire name. About this

other bettur disposed personz of the same place hade not lettyd theym of theyre cruell and myschefvous purpas at that tyme and so contynue in theyer riotous mysrule to the most perillous example and occasion of murdre and gret myscheff to be commytted and done except Somme gudde reformation may be opteynyd of your gudde grace in that behalf. In consideracion Wherof It may please youre gudde grace to gyff in Commaundement to youre Sergeant of Armes⁹ to brynge the seides Riotous personz affore youre gudde grace ther to answare to the premysses and to fynde suertye to be of their gudde beryng ageyns youre seid oratour and other the kynges subgettes entending to lyff in pease and rest. And youre seid oratour shall dayly pray for the preseruacion of your gudde and gracious lordschypp.

Indorsed. John Colthurst versus the gentilmen of Furnyvalls Inn.

FURBUR *v.* FURNYVALL IN, PRINCIPAL OF, AND OTHERS.¹

D. To the most Reuerend Fader in god (W)²ylliam Archbyshop Caunturbury and Chaunceler of England

1507

Humble Shewith And Compleyneth to youre grace youre Dayly Oratour Henre Furbur that Where youre seyde Oratour beyng Seruant to Syr Edward Vndurwod Chaplayne to my lord of Ely on Thursday next after the fest of the appostelles Phylipp and Jacob³ abowt xj of the Clok in the nyght vppon the same day as he went in peasable maner from the place of the seid Byschopp of Ely toward the house of oone John Browne in Holburn to his bedde and loggyng wher he was vsed to be logged Sodenly came the Principall of Furnyvalls Inne and with hym many other persons vnknownen with Swordes Bukelers and other defensyble weppens in Riottous maner and ther and then toke after the maner of Robberie from youre pore suppliant a Sword the price ij^s viij^d⁴ to his great fere and daunger of his lyve and the same Sword as zet they wrongfully kepe and with hold Contrary to all Ryght and gudde order of the kyng⁵ lawes to the

time Richard Bryche of Bryche co. Lanc. married Anne daughter of Thomas Hawarden of Wolstone. W. Flower, 'Visitation of Lancashire' (1567). Chetham Soc. lxxxi. (1870), p. 121.

⁹ 'Another of them (Sergeants at arms) attends on the Lord Chancellor or Lord Keeper, in the Chancery.' Cowel, 'Interpreter' (ed. 1701), s.v. Their number was limited to thirty by 13 R. 2, st. 1, c. 6. Cf. pp. 2, 72, and Introd., p. xxvi.

¹ S.C.P. Hen. 8, vol. x. p. 123, wrongly sorted.

² Parchment torn.

³ See C, p. 245, n. 4, supra.

⁴ The only example of the price of a sword between 1401 and 1582 in Rogers's 'Hist. Agr. and Prices' is ib. iii. 553, where a sword is recorded to have been sold at Roydon for 1s. 8d.

⁵ Sic.

evyll example of all other misdoers & that they may thus Contynue vnpunysshed accordyng to theyr demerites In Consideracion Wherof It may please youre gudde grace to gyff in Commaundment to youre Sergeant of armes to bryng the seides riottours personz affore youre gudde grace ther to answare to the premysses ⁶ & to delyuere the seyd sword ageyn ⁶ and to Fynde Suertye to be of their gudde beryng ageyn youre seid Oratour and other the kynges subgettes entendyng to lyffe in peas and rest and youre seid Oratour shall Dayly pray for the preseruacon of youre gudde and gracious lordschypp.⁷

Indorsed. Henry Furbure versus Appliard principal of Furnyvall In &c.

COLTHURST AND FURBUR *v.* FURNYVALS IN, PRINCIPAL, &c.
OF.¹

E. Thys ys the Answere of mydmo(re and moyle)² and of the pryncypall and felechyp of Furnyvals In to the seuerall (bills of com)²playnte of John Colthurst & Harry Furbure.

1507 The seyd pryncypall and hys felechyp seyth that the seyd byll of (com)playnt² ys insufficyent and ontrew but only of malys contruyd to vex and Trubbull hym and hys seyd felechyp not wyth stondyng for declaracion of trowthe they sey that the seid ij Gentylnen namyd in the seyd byll of complaynte was namys be mydmore and moyle beyng in goddes pees and the kynges thynkyng no yeuyl to eny parson the Thursday in the seyd byll of Complaynt specyfyyd³ a bout ix of the Cloke at nyzght went to a neyburse house in holburne to fett a bolsture for there bedde and as they were comyng ageyne toward there plase the seyd mydmore hauyng the seyd bolstere vndyre hys arme met sodenly at a lanyse yend⁴ the seyd suruantes of the Bysshoppes that ys to sey John Colthurst John Wamsley William metcalf & Richard Watson suspeciusly stondyng wyth there Swerdys & bokelers and as the seyd mydmore and moyle passyd by them the seyd iiij persons askyd what they werr and they answeyrd ayene⁵ & seyd goodfelowys and there a pon the seyd Bysshoppys seruantis caulyd them knauys wyth out eny occasion rone to them wyth there knyuis

⁶⁻⁶ Interlined.

⁷ In the same hand as Colthurst's bill of complaint.

¹ S.C.P. Hen. 8, vol. x. p. 124. Wrongly sorted.

² Parchment torn.

² See C, p. 245, n. 4, *supra*.

⁴ See A, p. 239, n. 20. This suggests that either the N. end of Back Hill or the S. end of the lane running northwards from the W. end of the N. front of the Inn was the place.

⁵ Interlined.

drawne and then they gaue gaue⁶ bake for there defence and sauegard of there lyuys tyll they came wyth in the Barrys of the seyde place of Furnyvalys In and there and then the seyde Bysshopes seruantes greuously hurt the seyde mydmore and gaue hym grete woundes were by he was in jopardy of hys lyfe and thereapon the seyde mydmore rane in to the place of Furnyvalles In sore woundyd and all bledying pytuysly cryng for help seyng that he was sore woundyd and in jupardy of hys lyfe and moreouer the seyde parsons that soo had woundyd hym were wythin the barrys of the same place wyth there knyuis drawe purposyng to do more myschyff were apoun the pryncypall and dyuers of the felechype of the seyde In went out of the seyde place to haue knowen watt mysdemenyd persons they were and then to haue takon and brought them to to⁶ the constabulls and soo pursuyd the seyde misdoars and serchyd for them at a suspecius house caulyd modyr Jones were euyl rule by them and other of the seyde Bysshopes seruantes of long tyme haue byn and yet ys dayly vsyd, and wen they cam to the same hous the seyde mysdemenyd persons were not there but there founde odyre dyuers seruantes of the Bysshopes there sittying on to⁷ they gaue noo yll wordys but departyd peably⁶ out of the same hous and soo returnyd womward and wen the seyde pryncypall and hys felechyp were in the strete they met wyth the seyde harry furbur complaynant in the othyr byll suspeciusly stondying wyth hys swerde in hys hand wom they askyd in pesabull maner watt he was & wethyr he were eny of them that had don the seyde mischeuous dede and then he answeyrd and seyde he was seruante with on doctur vndyrwood⁸ chapelene of Bisshopes⁶ and that he knew of noo sicche dede done ant⁶ seyde to the intente that yt shuld well appere that he intendyd to doo noo hurte he was contente & offeryd to delyuer on of them⁵ hys swerd and to feche yt ageyne of the morow and in sich wise of his one fre wyll and offeryd in fryndly maner wythout eny compulcion he deliuerd the seyde swerde & sence he neuyr requyrd yt wych hath byn and yet ys redy to be deliuerd on to hym. Wyth out that that the seyde mydmore and moile made eny assawte a pon the seyde John Colthurst in maner and forme as the seyde byll hath ellegid, and wyth⁶ that that the seyde princypall and hys company riottysly enterid in the seyde house in eny other maner then thys answer conteynyth & wyth out⁵ that that the seyde principall and hys company toke a wey the Swerde of the seyde harry Furbure in maner

⁶ Sic.

⁷ Sic, 'whom' omitted.

⁸ Edward Undyrwod, Undurwod, perhaps the Edward Underwod who was admitted B.A. of Oxford July 4, 1457

(C. W. Boase, 'Register of the University of Oxford,' 1885, i. 29.) If so, he would be a younger contemporary of Bishop Stanley, who was educated at both Universities.

and forme in hys byll has ⁶ Elegid. Al wych maters the seyd principall and hys felechypp be redi to proue as this courte wyll awarde and prayth to be dysmyssyd out of the same wyth there resonabull costes and damages of there wrongfull vexacion.

Indorsed. Examinacio capta fuit xvj die mensis ⁸ anno xxij^{do} Henrici vij^{mi} in quadam papiro huic responso annexa.

In modern hand. Colthurst & Furbur v. Principal of Furnivall Inn.

F.	Thexaminacion	* 1	* 1	* 1	* 1	* 1	* 1	* 1
	Ely of	* 1	* 1	* 1	* 1	* 1	* 1	* 1
	of Furniu(als In)	* 1	* 1	* 1	* 1	* 1	* 1	* 1

Roger Johnson of the age of * 1 * 1 * 1 * 1 * 1 * 1
to the Reuerend fader Jamys Busshop (of Ely)² * 1 * 1 * 1
examyned, Saithe and deposithe vppon his othe, th(at) * 1 * 1
the first affray supposed to be doone and made vppon J * 1 * 1
James Jrlond³ vppon the monday before twelf day last p(ast)¹ (in)¹
the evenyng betwixt viij and ix of the klok, This deponent * 1 * 1
⁴ and Humfrey Adderton⁵ came out of the said lord of (Ely's)¹
place vnto a woman's house next the same strete gate called modre
Johanne, where ymmediatly oone Richard Coney came in to this
deponent & to the said Humfrey, taking the same Humfrey
Adderton with hym, to goo to the signe of the Crowne in Holburne⁶
to thair lodgieng, and within a litle tyme after the same wer departed
thens, this deponent then being in the seid pouer womans house and
hering a grete noise & outcrye issued out of the hous, And then, a
litle from the gate, founde in the derke the said Coney and Adderton
in the strete haueng theyr wepons in thur handes, and the same
Adderton being hurt on the hed & the other personnes that had hurt
hym wer goone from theym, and this deponent asked his fellowes
whar they were that had hirt theym, and they seid they knewe theym
not. Wheruppon this deponent with his said ij fellowes ymmediatly
perceyueng ij men goeng vnto oone Henre barbours hous with thur
knyffes in thur handes drawen, supposing the same personnes to be

⁸ The month omitted, but the indorsement on the answer to the plaint of the Principal of Furnivall's Inn and others v. Johnson and others (p. 245, supra) shows it to have been May (1507).

¹ S.C.P. Hen. 8, vol. x. p. 125. Wrongly sorted. Paper torn.

² See A, p. 235, n. 11, supra.

³ Apparently a confusion between the names Irton and Drylond.

⁴ 'Coney' struck through.

⁵ See A, p. 238, n. 10, supra.

⁶ See B, p. 241, n. 4, supra.

the same that p * 1 theym * 1 * 1 barbours
 house, And the same ij personn(es) ¹ being * 1 * 1 (m)ade ¹
 resistence, and soo oon of theym was hurt and this deponent
 thinketh in his conscience that so he hurt hym somewhat, but where
 he hurt hym he cannot tell, And so this deponent & his said fellowes
 departed, and moreouer he saith that the next day after he herd it
 named that it was Irton that was hurt by this deponent, but he saith
 by his othe he knewe hym not what he was at the tyme of the affray.
 And furthermore this deponent saith that he knewe not of any mo of
 his company, but of the same Conye & Adderton till the fray was
 done & the same Irton hurt.

This deponent also saithe and confessith that he was present in the
 passion weke last past ⁷ at my said lordes place in what hous he
 remembrith not, ⁸ when oone sir Randall poole ⁹ chapeleyn to my lorde
 of Ely payde to the hands of the said Irton for his hurtes vij li. in
 pens of twoo pens ¹⁰ in full contentation of xiiij li. ¹¹ but wheder the
 same Irton haue any ¹² yerely aduauntages ¹² ¹³ to the value of v
 marcs ¹⁴ or to any value ¹² increasing to hym ouer and aboue the said
 xiiij li. he knyoth not. And after the last affray supposed to be doone
 & made on the thursday the vj day of may last past vppon moyle
 and middelmore, this deponent saithe he knyoth noo thing of it ¹² but
 by report, ¹² nother was at it first nor last, and more he knyoth the not
 in this mater.

Richard Coney seruuaunt to my said lord of Ely sworne
 * 1 * 1 the day and yere abouesaid, Saithe that on the
 * 1 * 1 afore twelf day last as this deponent and * 1 * 1
 * 1 Adderton wer goeng from thaire lordes place to the C(rowne) ¹

⁷ April 16-23, 1507.

⁸ From Agas's map it appears that the precincts of Ely Place contained a number of dwellings.

⁹ This was another Cheshire neighbour of the Stanleys. He was the son of Sir William Pole, knight, of Nether Poole on the banks of the Mersey. Inq. post mortem 29 Hen. 8; G. Ormerod, 'Hist. of Cheshire' (ed. T. Helsby, 1882), ii. 421. Cf. A, p. 238, n. 10, supra.

¹⁰ By statute 19 Hen. 7, c. 5, § 2 (1504), it was enacted as follows: 'The Kyng our Soverayn Lord by thadvyce of his Counseill hath causid to be made newe Coynes of grotes and pens of too pens and that every pese of the same Coynes shall haue a sercle about the utter parte therof.' Eight different half groats are described by Ruding as coined in this reign. 'Annals of the Coinage' (3rd ed. 1840), ii. 311. Cf. plates vi. and vii.

in vol. iii. The half groat or penny of two pence must therefore have been a coin in common use.

¹¹ I.e. apparently as many twopenny pieces as if they had been pence would have made 7l. At this time the silver penny weighed 12 grains and the pound of silver contained 5,760 grains. The number of silver pence to the pound of silver was therefore 480 or 3,360 to seven pounds. The number of twopenny pieces counted out must therefore have been 3,360. R. H. Inglis Palgrave, 'Dict. Pol. Econ.' (1899), vol. iii. 'Penny.'

¹²⁻¹² Interlined.

¹³ Pecuniary profits: cf. Lydg. 'Pylgr. Sowle' (1483), iv. xxxiii. 81: 'His rentes and revenues and suche other auantages.' J. A. H. Murray, 'Eng. Dict.' s.v. Cf. Du Cange, 'Gloss.' s.v. Cf. p. 239, supra.

¹⁴ See A, p. 239, n. 15, supra.

(in)¹ Holburne, where thaire horses & they were at
 lodge *¹ *¹ *¹ Rayles within xx yerdes of the grete
 strete gate *¹ *¹ perceyue v personnes standing at the
 Rayles, and the *¹ Humfrey asked who was there, and the
 same v personnes *¹ *¹ ye shall well knowe or ye departe
 and furthwith dr(ew their)¹ swerdes and knyffes, and
 assaulted this deponent & the *¹ *¹ and there hurt the
 same Adderton vppon the hed, and *¹ *¹ folkes in
 the strete made an outerye, and dyuers and *¹ came out of
 the said lordes place to rescewe the same, and then the said v
 personnes withdrewe theym selues, and ij of them went into a
 barbours hous¹⁵ in the said lordes Rentes, and so this deponent and
 the said Humfrey, and oone Roger Johnson, with dyuers othre whom
 he remembreth not, pursued into the hous the sai dij personnes and
 ther oone of theym fled on the baksyde through a gardeyn & soo
 escaped, And the other was soore hurt on the hedde. And moreouer
 this deponent saith he knyoth not whos dede it was but he thinketh
 the same Adderton by cause of his hurt he was the more angry, and
 seith that till the next day after he knew not what they were that had
 soo¹² made the¹² affrayde¹⁶ with theym And saithe furthermore
 that the same Irton as he hathe herd it reported had xiiij¹¹ for
 am(endes for)¹ his hurtes, and that the same money, parte of it
 was *¹ *¹ in¹⁷ charge of this deponent and parte of othre
 mens charges,¹⁸ And m(ore)¹ (he)¹ knyoth not in that mater. And
 asto the last affray supposed to be made vppon moyle & other this
 deponent saith he knyoth the noo thing therof but by report nother was
 present therat at the begynneng nor endyng. And more he knyoth
 not &c.

Richard Beconsall¹⁹ seruant to my lord of Ely of thage of l yeres or
 more sworne and examyned the day and yere abouesaide, Saith and
 deposith vppon his othe, That after the first affray supposed to
 be made vppon the said Irton and Drylond, he saith that when
 he herd the cry in the strete, he then being within my said
 lordes place, resorted thiddre, and came to a barbouris hous in
 my said lordes Rentes²⁰ where many personnes wer assembled

¹⁵ Called above 'Henre barbours hous,' showing this to be a trade name.

¹⁶ The scribe had originally written 'had so affrayde,' but an amendment having been introduced which was intended to be 'made the affray' he forgot to strike out the last two letters.

¹⁷ Above the words 'was in charge of'

were interlined 'and * * to come.'

¹⁸ I.e. contributions had been levied by the bishop to make up the sum.

¹⁹ See A, p. 238, n. 10, supra.

²⁰ Ely Rents was the name of the tenements adjudicated upon by the Star Chamber in 1567. See B, p. 241, n. 5, supra.

¹² without the doore ¹² ²¹ and soo entred the hous, and ther he sawe iiij or v of his owen company, that wer commeng out of the barbours house, whos names wer Johnson, Coney, Humfrey Adderton and othre whiche he nowe remembrith not. And ther in the same hous he sawe the said Irton being hurt vppon the hed.²² And more in this mater this deponent knyoth not but by report, nother was present at any parte of the affray first nor last, othrewise then he hathe aboue deposed.

And after the seconde affray supposed to be made ¹² the Thursday ¹² vppon moyle ²³ and midmore, he saithe he was not there nor knyoth the nothing therof othrewise than was reported openly the next day after, when he herd dyuers of his company speke therof &c. and more &c.

BYLAND, ABBOT &c. OF, v. WARCOPPE.¹

A. To the right reuerent Fader in God William the archbisschopp of Cantorbury and Chaunceller of Englund ²

1507 Humbly shewyth and compleaneth vn to your good and gracious lordshipp your dayly Oratours and beidmen John the Abbot ³ of the monasterie of our blyssid lady saynt marie of Byland in the Countie of york ⁴ and the Couent of the same monastirie that where affore

²¹ The words 'bothe of his owen company' struck through.

²² A side note, apparently intended to be read here, runs as follows: 'but after the money paide to Irton for recompense of his hurt he saith that he herd my lordes Recey your say he had paide hym xiiij li.'

²³ Perhaps a son of Sir Walter Moyle, J. of C.P., 1452-71.

¹ S. C. P. Hen. 7, No. 91. See p. 106, supra.

² See p. 245, n. 3.

³ John Farington or Farlington, abbot 1499-1525. Dugdale, 'Monast. Angl.' (ed. 1846), v. 345. By the will of Malde Hancoke, widow of Robert Hancoke, citizen and grocer and alderman of York, dated March 28, 1508, there was bequeathed 'To dan John Farlington, abbott of Byland, a gylt spon; and to him and the covent for oon obet xx'.' 'Testamenta Eboracensia' (Surtees Soc. 1869), iv. 275. He was perhaps also the 'frere John Farleton,' to whom on August 31, 1479, Janett Caudell, widow of John Caudell, of York, sacrist, bequeathed 'for to praye for my saule, my husband saule, my fader and

moder saules, my childer, and all my goode doers saules x' with a halling of white stened' (a hanging of white tapestry).

⁴ The Cistercian Abbey of Byland, founded by Roger de Mowbray in 1143. According to Dugdale (l.c.) the abbey was preserved by letters patent from the dissolution of the lesser monasteries and refounded in 28 Hen. 8 (1536-37), but finally dissolved 30 Hen. 8 (1538-39). But Dugdale preserves the computus roll at its final dissolution, from which it appears that its net revenue was 238*l.* 9*s.* 4*d.* The letter of the commissioners to Cromwell announcing its dissolution is dated December 15, 1537 (Camd. Soc. xxvi. p. 167). The Act of 1536 (27 Hen. 8, c. 28) provided for the dissolution only of monasteries of which the revenue was less than 'the clere yerly value of ij c. li.' It is evident, therefore, that the dissolution was a mistake, being unauthorised by Parliament, and that this was the cause of the formal refoundation which Dugdale notes. The Abbey was finally dissolved in 1539 with the other greater monasteries under the 'Acte for dissolucion of Abbeyes,' 31 Hen. 8, c. 13.

this tyme it pleasid the kyng oure souereigne lord by his gracious lettres wyllyng your said Oratours to appoynt & name his most derist son my lord Prynce that Nowe is at that tyme beyng Duke of york to be Stuard of the said monastirie⁵ & of all theyr maners londes & tenementes in york shyre to haue the defence rule & gouernaunce of all theyr tenauntes & seruauentes there and afturward for somoche as our said souereigne lord thought it nessessarie that my said lord prince shuld haue A deputie there it pleasid his grace by his secund gracious lettres eftsones vnto your said Oratours directid to appoynt & Name Richard Cholmelay knyght⁶ to be deputie vnto my said lord Prynce duryng his lyff of all the said manours londis & tenementes

⁵ See *Intro.*, p. cviii, *supra*.

⁶ Sir Richard Cholmelay, or Cholmeley, who died in 1521, is stated by Thomas Tonge, Norroy King of Arms, who made an heraldic visitation of the Northern counties in 1530, to have been a son of John Cholmundele of Golston (Salop) by Joan, daughter and 'oon of the heyres of Thomas Eyton of Goldston; and he (John) had yssue Syr Richard Cholmondeley, lyve tenaunt of the Tower of London, whiche dyed without yssue' (Surtees Soc. xli. 21 [1862]). As this pedigree was found nine years after Sir Richard's death it is incontrovertible. It follows that this Sir Richard has been wrongly identified with Sir Richard Cholmely or Cholmondeley of Chorley, Cheshire, whose will is dated December 26, 1531, and who appears to have been the son of Richard Cholmondeley (see Ormerod's 'Hist. Cheshire' [ed. Helsby] ii. 633, iii. 401). The Sir Richard Cholmeley in this case, afterwards Lieutenant of the Tower, was appointed gentleman usher of the King's chamber soon after the accession of Henry 7. This identification can be made by a grant of May 7, 1511 (S. P. Dom. Hen. 8, i. 1645) of an annuity of 20*l.* out of the customs of Newcastle-on-Tyne on surrender of patent dated June 30, 2 Hen. 7 (1487), when he was gentleman usher of the chamber. The original grant was for life (Campbell, 'Materials,' ii. 157). From this appointment we may infer that he was in politics a Lancastrian. He is mentioned in an award dated April 30, 1490, in which he acted as one of three arbitrators between two religious houses and the town of Richmond, Yorks. In this document he is described as 'squyer of the King's Counsall and Generall Receyvor of Richmunda and other Lordeshipes' ('Testamenta Eboracensia' [Surtees Soc. 1855], vol. xxx. p. 114, n.) In January 1492 he was appointed by Henry 7 with two others a commissioner to settle a dispute as to

precedence between the weavers and cordwainers of York, being styled 'Usher of the King's Chamber' (R. Davies, 'Municipal Records of York' (1843), p. 254, foll.). On April 11, 1494, Cholmeley was nominated one of eight commissioners to discharge out of the revenues of the see then in the King's hands the debts of John Shirwood, bishop of Durham, who had died at Rome on the previous January 12. R. Surtees, 'Hist. of Durham' (1816), I. lxi. gives the date of the commission as April 11, 8 Hen. 7. This must be a mistake for 9 Henry 7, since April 11, 8 Hen. 7, was in 1493 and the bishop did not die till January 12, 1493-94. So also the letter dated June xvj, to which the editor of the 'Plompton Correspondence' (Camd. Soc. 1839), p. 106, has added 1493, must be misdated, as the writer speaks of the bishop as already deceased. This letter, in which the editor is undoubtedly correct in reading 'Cholmeley' for 'Coverley,' is dated from Cottingham, near Hull, where Cholmeley lived. Part of his duty was to levy arrears due to the bishop. At this time Thomas Howard, earl of Surrey, was commander-in-chief on the Scottish border, and Cholmeley appears to have been in his favour (see *ib.* p. 104). When in 1497 Surrey invaded Scotland, Cholmeley accompanied him, and was one of thirty who received from him the honour of knighthood for service in the field (W. C. Metcalfe, 'Book of Knights' [1885], p. 31). He was made treasurer and chamberlain of the town of Berwick, and customer of the port (S. P. Dom. Hen. 8, i. 176). In this capacity it was his duty to collect revenues from a large number of lordships in Yorkshire, Durham, and Derbyshire assigned by Parliament for the maintenance of the garrison (*ib.* 192, Statute 11 Hen. 7, c. 61, Pro Berwik et Carlol). Perhaps as a reward for discharging this office to the king's satisfaction he was granted the manor of

as by the said lettres of oure said souereigne lord vn to your said heidmen directid more playnly it doith appier whos pleasour & comaundement in that byhalff as well in grauntynge of the said Stuardshippe as makynge the said sir Richard Cholmeley deputie your said Oratours dydd accomplysshe, And this not with stondynge

Forecet, Yorks (ib. iii. 2415. 19). After his resignation (1503) of the treasurership of Berwick he was employed in 1503 as commissioner to levy two aids for the king in the North Riding of Yorkshire (Rolls of Parlt. vi. 538), and was made bailiff of Byse in the East Riding (S. P. Dom. Hen. 8, i. 229). He retained this place at the accession of Henry 8, and was nominated constable of Sherifhoton castle, in the North Riding, and steward of that lordship (June 28, 1509, ib. 230). About this time he appears to have attended court and is first mentioned among the select knights styled 'Knights of the Body' in a grant of July 4 of the same year, appointing him to the lucrative office of customer of wools, hides and fleeces in the port of London (ib. 254). The first mention of him in connexion with the Tower of London is in a copy of ordinances for its regulation addressed to Sir Thomas Lovell, the Constable, and himself, presumably as Lieutenant, by the Privy Council on July 25 following (ib. 336). At the head of the Council at this time was his old friend, the Earl of Surrey, to whose patronage these preferences may be ascribed. Doubtless he discharged his office of customer of London by deputy, for on October 8 he was nominated comptroller of the great and little customs in the port of Kingston-on-Hull (ib. 553). He now married Elizabeth widow of Sir Walter Strikland, the wardship of whose son he was granted by patent of April 26, 1510 (ib. 1016). On May 7, 1511, he received the grant of an annuity of 20*l.* out of the customs of Newcastle-on-Tyne already mentioned (ib. 1645). He was placed on the commission of sewers for Yorkshire on March 15, 1512 (ib. 3072). At this time he was resident at Cottingham Castle, near Hull, being described as 'of Cottingham' in a release of recognisances of April 8, 1513 (ib. 3866). Cottingham was one of those royal manors of which, as treasurer of Berwick, he drew the revenues (Rolls of Parlt. vi. 394, 11 Hen. 7, c. 61). He was steward of the manor (S. P. Dom. Hen. 8, i. 5059). But he must have been frequently in attendance at Court, for he was nominated on the commission of the peace for Kent on September 23, 1512, and March 3, 1514 (ib. 3428, 4847), probably that he might act when the court was at Greenwich, and for Middlesex on November

28 following and on January 21, 1514 (ib. 3552 and 4663). He is, in virtue of his Lieutenantancy of the Tower, styled Sir Richard Cholmeley 'of London' (ib. 3600) in a release of his recognisances for 40*l.* entered into on behalf of Sir Thomas Curwen, sheriff of Cumberland (December 18, 1512, cf. ib. 3866). At Greenwich on April 18, 1513, he received a grant of an annuity of ten marks (6*l.* 13*s.* 4*d.*) during pleasure out of the issues of the lordship of Kenyngton, Surrey (ib. 3911). He commanded a portion of the right wing at Flodden (September 9, 1513: Hall's 'Chron.' p. 557). It was perhaps in recognition of his services, he having led the men of Hull, that he was promoted to be a member of Henry 8's Privy Council on September 23, 1513 (ib. 5762). He was nominated a commissioner of gaol delivery for Surrey on November 18 following (ib. 4568). Perhaps further to qualify for judicial office, he was admitted a member of Lincoln's Inn on August 4, 1514 ('Linc. Inn Admission Register,' p. 36). While comptroller of the port of Hull, he obtained a dispensation, dated May 17, 1514, from the Act 20 Hen. 6, c. 5, prohibiting officers of customs from possessing merchant ships (ib. 5091). Such profuse grants were not confined to Cholmeley, and in 1515 the Commons declared that the King's improvidence had impaired his resources. An Act of Resumption was passed of all grants other than those annexed to offices issued since the beginning of the reign (6 Hen. 8, c. 25). Cholmeley was not seriously affected, but his influence with the King was successful in procuring, immediately after the passing of the Act, a fresh grant of his annuity of 20*l.* out of the customs of Newcastle-on-Tyne (August 1, 1515, S. P. Dom. Hen. 8, ii. 791). The Act was again violated in his favour, in respect of its prohibition of joint grants (§ 2), by his appointment with Sir John Daunce as stewards in survivorship of Kenyngton, Surrey, on April 7, 1516 (ib. 1744), a preferment worth five marks a year (3*l.* 6*s.* 8*d.*) to each (ib. 2252). He continued to be nominated upon the commissions of the peace for Kent (ib. 6, 677, 747, 1302) and Middlesex (ib. 2127, 4435), and in 1515 appears on those for Cambridgeshire (ib. 1196, 1311) and among those qualified to serve as sheriff for that county (ib. 4562) in 1518 and 1519 (ib. iii. 500). He

one Robert Warcoppe of Warcoppe esquier ⁷ of his extort power malis & wrong with dyuers & mony euyl disposid persones to hym assemblid haith not only entrid in Riotous maner and ayaynst the kynges peasse of & in to the possession of youre said Oratours & beidmen at Blatern Warcoppe asby graunge & Bretherdale ⁸ and dyuers placis

had become possessed of a Cambridgeshire estate at Holmehall, Stowquye and Little Wylbram with a seat at Stowquye, where he obtained a licence to impark 200 acres (May 21, 1520. *ib.* 854, 51). In 1517 occurred the outbreak of the apprentices and citizens of London against foreigners, known as Evil May Day. 'Syr Richard Cholmeley, Lieutenaunt of the Tower, no great frende to the cite, in a frantike furye losed certayn peces of ordinaunce and shot into the cite, whiche did litle harme, howbeit his good wil apered' (Hall's 'Chronicle' [ed. 1809], p. 589). In the accounts of 1520 he appears as the recipient of a salary of 25*l.* a quarter as 'deputy-lieutenant of the Tower' (S. P. Dom. Hen. 8, iii. 408) and of 50*l.* a half-year as a member of the Household, presumably as Knight of the Body (*ib.* p. 409). At the trial of Edward Stafford, duke of Buckingham, in May 1521, the duke was escorted to and from Westminster Hall by Sir Thomas Lovell and Cholmeley (Hall's 'Chron.' p. 623). Cholmeley died later in the same year, in which also his will was proved (J. C. C. Smith, 'Index of Wills,' i. 120). He was buried, together with his wife, in the chapel of St. Peter ad Vincula in the Tower of London. A magnificent altar tomb, which yet remains, was there erected to his memory, bearing the effigies of himself and his wife. He left no issue. An engraving of the tomb is given in J. Bayley's 'History of the Tower of London' (1821), i. 122.

⁷ Robert Warcoppe of Warcoppe or Warcop, in the S.E. of Westmoreland, about seven miles from the present border of Yorkshire. The family had anciently held the manor (J. Nicolson and R. Burn, 'Hist. of Westmorland' [1777], i. 603). But as early as 10 Henry 5 (1422) it had passed to the Nevills, Earls of Westmoreland (*ib.*). It was at this time held by Richard Nevill, lord Latimer (Calendar of Patent Rolls Ed. 4 [Pat. June 11, 1481], p. 274). This Robert Warcoppe, apparently a considerable landed proprietor in Westmoreland, was probably the eldest son of Robert Warcoppe, who died before 1467, and Joan his wife (see Cal. Pat. Rolls Ed. 4 [Pat. March 15, 1467], p. 12), and was himself the father of a son named Robert (see Joyfull v. Warcoppe, A, p. 106). The second Robert, co-defendant with his son in the suit of Joyfull v. Warcoppe (p. 107), is mentioned by Polydore Vergil

(lib. xxvi. p. 763, Leyden ed. 1651) as a leader of Henry 7's forces in September, 1496, assembled to resist the Scotch invasion in support of Perkin Warbeck. He appears from the Plompton Correspondence (Camd. Soc., vol. iv. p. 107) to have been a cousin of Sir Robert Plompton. He was under-sheriff of the county in 1508-1509, receiving his release on July 20, 1510 (S. P. Dom. Hen. 8, i. 1179). On November 28, 1512, he was nominated on the commission of the peace for Westmoreland (*ib.* 3552), and again in the following year (February 4, 1513, *ib.* 3703). He was at this time a gentleman usher of the Chamber, which probably accounts for the grant of a wardship obtained by him on July 22, 1509 (*ib.* 322, cp. *ib.* 4369), and for a grant in survivorship on February 3, 1513, together with George Warcop, his brother, of the office of bailiff of the lordship of Gayneforth in the diocese of Durham with 2*d.* a day (*ib.* 3698). He was appointed on August 23, 1513, receiver-general of the possessions of the crown in Westmoreland and Cumberland (*ib.* 4414). Flodden was fought on September 9, 1513. Warcoppe was, like Cholmeley, a commander of a part of the right wing of the vanguard (Hall, 'Chron.' p. 557). He was one of the grand jury at Carlisle on July 9, 1532, who found an indictment against Lord Dacre for treason, of which he was acquitted on trial at Westminster Hall. He is mentioned in a muster roll of the gentlemen of Westmoreland taken in 1539 as 'absent,' which presumably means that he was at his post of gentleman usher (S. P. Dom. Hen. 8, xiv. i. 653, i.). He was probably dead on April 1, 1540, when his brother George surrendered in favour of Anthony Brakenbury, gentleman usher of the king's chamber, the patent of February 3, 1513 (*ib.* xv. 611 [18]). He married Agnes, daughter of Sir Richard Musgrave. Nicolson and Burn, i. 594.

⁸ In the computus of the abbey of Byland taken by the royal commissioners at the dissolution occur the following entries:—

	<i>li.</i>	<i>s.</i>	<i>d.</i>
Blaterne cum Wercop—Terr'			
et ten'	20	0	0
Bretherdale et Asby—Terr'			
et ten'	10	0	0
Dugd. 'Monast.' v. 355.			

with in the Countie of Westmoreland ⁹ bot also of wrong he pretendith to be stuard of all thayr said londes and tenementes in Westmoreland afforsaid as deputie vnto my said lord Prince by colour of an vntrue surmise made by the said Robert Warcoppe to my said lord Prince And nott only by colour ther of syttith as stuard ageynst the will of your said Oratours & holdith theyre Courtes & callith theyr tenautes affor hym and greuously amercieth theym at his owne pleasure And ouer this the said Robert dischargith & puttith out the good tenautes of your said besechours out of theyr fermholdes ayaynst the will of your said oratours & puttith in to the same trubblesom persones that be of lytill substaunce or value in to theyr placis at his pleasour bot also he kepith & retaynyth the Court Rolls of your said suppliautes and also the Streittes ¹⁰ of the same Courtes & willnot in nowyse accompt ne pay to theym the perquisites ne proffectes of the said Courtes ne no parcell ther of nor suffre theym to see the Court Rolls. And also the seid Robert warcop haith dyuers parcells of lond the whiche be his owne frehold lyeng with in the seid lordshippe of Warcoppe by reason wherof the said Robert dayly encrochith of the londys of your said suppliautes and claymyth it to be his owne londes to the vndowyng of youre sayd Oratours and to the dishenheritaunce of they ¹¹ said monastery and also the said Robert kepith from your said suppliautes the possession of theyr londes & tenementes in blatern ¹² afforsayd and in dyuers other places ⁹ Ryottously & with force. And also the said Robert Warcoppe haith nowe of late causid dyuers Euyll disposid persones to come vn to Blatern afforsayd and there haith bett woundid & mayhemed on William Thomson a poir tenaunt of your said besechours, with mony othere great iniures & wrongges the which the said Robert dayly comittith and doith vn to your said compleinautes ayaynst all right & good consciens For the Which Iniures & mysdemeanours your said Oratours and the said Robert Warcoppe bene at dyuers & mony sutes in the lawe aswell for breche of peasse maneysshyng & mayemyng of theyr tenautes asfor entryng and disseasyng theym of theyr londes ¹³ as is affore

⁹ The other possessions of the abbey in Westmoreland were:—

	<i>li.</i>	<i>s.</i>	<i>d.</i>
Fawcett — Redd' forestae	17	6	8
Wasdale, Armes- dale et Shap	Firma divers' terr' et ten'	8	0 0
Old Byland	Rectoria . .	7	0 0
Rillyngton	Rectoria . .	18	6 8
Bubwithe	Medietas rec- toriae . .	12	13 4

Ibid.

¹⁰ Estreats, Old French estraites. 'The

true extract, copy or note of some original writing or record, especially of fines, amercements &c. entered on the rolls of a court to be levied by the bailiff or other officer' (Wharton). Murray, 'New Engl. Dict.' s.v.

¹¹ Sic.

¹² Now Bleatarn, S.W. of and contiguous to Warcop. The defendant's claim to this lordship is stated in Joyfull v. Warcoppe, C, p. 109.

¹³ See Joyfull v. Warcoppe, p. 107.

said Wherefore gracious lord that his dealyng considred it is not semyng that the said Robert Warcoppe shuldbe stuard or deputie vnto your said Oratours of the said londes & tenementes. Wherefore it myght please your graciouse lordshippe the premissis graciously considrid As well to comaund the said Robert Warcoppe that he in no wyse take vppon hym the said office of stuardshippe or deputie there or in any wise medle with as to graunt your gracious comaundement or writ of sub pena to be directid vnto the said Robert Warcoppe comaundyng hym by the same to be & personally appiere by for the kyng & his lordes of his most honourable Counsaill at his palays of Westminster at a certayne day and vnder a certayn payne by your good lordshippe to be lymittid there to aunswere to the premisses, and forther to be rulid in the same accordyng to Justice lawe and good consciens, this for the love of God and in the Way of Charite and your said Oratours shall dayly pray to God for the preseruacion of your most honourable lordshippe.

Indorsed. Termino trinitatis anno regni regis xxij^o.¹⁴
thabbott of bylond contra Warcoppe.

B. To the most reuerend fader in god William Archbisshopp of Canterbury Chaunceler of Englund And to the kynges most honorable Councell

In most humble Wise shewith & piteously compleyneth vnto your goode & gracious lordships your humble & dayly Oratours & bedemen Thabbot & Couent of the monasterie of our lady of Byland in the Countie of york that wher your seid besechers lately by their bill of compleynt & peticon shewed & compleyned of the great wrongfull & forcible keping of their londes from them & dyuerse oder great wronges extorcions and Jniuries done vnto them by Robert Warcop as by the same bill of compleynt more at large apperith, vnto the which bill the seid Robert as yet hath made no answer, Neuertheles gracious lordes so it is that in the last Terme of the holy Trinite the xxijth yer of the Reign of our Souereyn lord the Kyng¹ direccion was taken by your lordships & by the seid most honorable Councell so that Iniunccion was yeven to the seid Robert² vppon payne of xli^{li} to suffre youre seid besechers to occupie all suche londes as they then hade in Blatern in Warcoppe in the Countie of Westmoreland of the which they wer laufully possessed or of right ought

¹⁴ June 9-30, 1507. J. J. Bond, 'Handy Book of Dates' (1866), pp. 88, 236.

¹ See preceding note.

² See *Introd.*, p. cxxi.

to haue by the lawe without interupcon or let of the seid Robert vnto this day that is to sey the xv^{cim} of seynt michell then next folowyng.³ Neuertheles so it is that the seid Robert not dreding any Iniunccion ne commaundement yeven to hym, And also nottwithstanding that the seid Robert was indited of forcible entree into the seid londes & your seid Oratours restored therunto by the Justice of the Kynges Benche, The seid Robert sithen that & sithen the seid Jniunccion hath riotously & with force made newe entree into the seid londes & tenementes and taken the peetes of the Tenautes ther that they shuld haue hade for their fuell & casten them into the water & distroyed them and with such force put one John Walker beyng Fermour to your seid Besechers out of his Ferm and puttith the residue of the seid tenautes in such fere & drede of deth that they dare not occupie their Fermez. And so the seid Robert with such force hath ered⁴ great substans of the ground of your seid besechers & occupieth & lettith it hym self by scottishmen & oder riotous persons gaderd out of Straunge Countreys that no man in that Contrey knowith And also with such force compellith the Fermours of the residue of the seid londes for fere & drede of their lyves to pay hym the rentes which londes & rentes be of the yerly value of xliiij^s & better and the seid Robert is of such riotous disposicon that your seid bedemen ne their seruauntes ne Tenautes dare deale with hym for hertofore vpon varians hade betwene hym & oder one honest & well disposed person called Richard Jofeld was slayne & murdred wherof the seid Robert standith indited as accessory to the same.⁵ And wher as suertie of peas was taken afore the Justice of peas of the seid Countie of Westmoreland ayenst John Sawyer John Elweld William Lancaster Raufe Metcalf and diuerse oder riotous & euill disposed persons gadered by the seid Robert & diuerse of them secretly kept in his hous, And they wer arrestid by one John Jackson Bailly Errand,⁶ the said John by the meanez of the same Robert suffered them to go at large without brynging them to Justice of peas

³ October 13, 1507.

⁴ ploughed, 'eared up by a plough,' Harrison's 'England' (1587), I. xxiv., (1877) i. 361. The word occurs in the form 'erry' in Eynesham, Abbot of, v. Harecourt. A, p. 147, n. 55. See J. A. H. Murray, 'New Engl. Dict.' s.v.

⁵ Apparently out on bail. The murdered man was probably the Richard Joyfull who was plaintiff against Warcoppe in the former case seven years before (see p. 106). For the practice down to about 1625 of admitting to recognisances even in

cases of murder see Worcestershire County Records (edited by J. W. Willis Bund, Worcester, 1900), vol. i. Introd., pp. xl, xevii, and 4 and 177.

⁶ 'Ordinary Bayliffs are of two sorts, Bayliffs Errants and Bayliffs of Franchises: Bayliffs Errants, Ballivi Itinerantes, be those which the sheriff maketh & appointeth to go hither & thither in the county to serve writs, to summon the county, sessions, assizes & such like. Bayliffs of Franchises, Ballivi Franchiesiarum aut libertatum, be those that be appointed by every lord within

or fynding suertie to the peas⁷ vnto the tyme that they hade maymed one William Thomson Fermour to your seid Besechers & cutte of his right thom to his vtter vndoing & put hym in great daunger of his lif and then resorted ageyne to the seid Robert, and ther be they kept & mayntened⁸ by hym that no man dare medle with them. And also wher the seid Robert was commaunded at the last assissey before the Justice of assise & Justice of peas of the same Countie by virtue of the kynges writt of supplicauit⁹ to them directed to fynd suertie for the peas, the seid Robert obstynately refused so to doo. Wherfore he was committed to warde and ther lay a long space & wold fynd no suertie according to the seid writte¹⁰ to thentent as it semyth & apperith that he wold haue eftsones¹¹ beten & maymed the Fermours & seruantes of your seid besechers or he founde any suertie for the peas, And for fere therof & of the wilfull & riotous demeanour of the seid Robert, The Fermours & Tenautes of your seid besechers dare not come in their housez ne the seruantes of your seid besechers come in that Contrey. Wherfore youre seid besechers in most humble wise besechith your goode & gracious lordshippes that the seid Robert may haue condigne ponysshement for the seid riot & his offences in example of oder mysdoers and to fynd suertie that your seid besechers may peacibly haue & enioy all the seid londes and tenementes by them self Fermours & tenantes without let or interuption of the seid Robert or any oder for hym, And also to satisfie them of such profites as he hath taken therof to the value of xl li. & aboue, And also for costes that he hath caused them to spend to the some of c marcs¹² & aboue, So that your seid besechers may quietly serue god and pray for the kynges grace & my lord prince & youre lordshippes &c.

Indorsed. Termino Michaelis Anno regis xxiiij^o¹²
 thabbott of Bylond contra Robertum Warcoppe
 Abbas de Bylond contra Warcoppe
 Abbas de Bylond contra Robertum Warcopp.¹³

his Liberty, to do such offices within his Precincts as the Baylif Errant doth at large in the County.' Cowel, 'Interpreter' (1701), s.v.

⁷ This reads as if the Bailiff was to find surety for the peaceable behaviour of his prisoners.

⁸ Cf. p. 146, n. 38, and p. 241, n. 1.

⁹ 'Supplicavit is a writ issuing out of the Chancery for taking the surety of peace against a man. It is directed to the Justices

of Peace of the County and the Sheriff & is grounded upon the statute anno 1 Ed. 3, cap. 16, which ordains that certain persons in Chancery shall be assigned to take care of the Peace.' Ib.

¹⁰ A second time, again. Murray, s.v.

¹¹ 66l. 13s. 4d.

¹² October 9–November 29, 1507.

¹³ This indorsement on the parchment turned upside down.

- c. The answer of Robert Warcoppe to the seuerall byllys of Complaynt put in ayenst hym by the abbot of Bylund.

The seyð Robert seyeth that the seyð byllys are insufficyent vncerten & vntrew, and also Sclanederusly Fayned, to the grevus vexacion trouble and cost of the seyð Robert, and ouerthat the seyð Roberte seyeth that as to eny Ryott, forsyble entree, murther, mayme or eny other vnlawfull demeanour contrarye to the kynges peace, he is therof and of euery parcell of the same no thing gyltye. And as to the Resydew of all the maters and articles Specyfied in the seyð seuerall byllys of Complaynt, he seyeth hyt ys mater Clerely determinable at the Comen law of thys lond and not els where, Wherunto the seyð Roberte prayth to be remytted, and that he may haue alowaunce of the same. And for asmoche as the seyð abbott ys a mane of grete possessions and gretely fryndyd in the seyð Countye of Westmoreland, And the seyð Roberte a gentylman of mene & lese¹ powre in the same Countye, Wherfor he axyth Jugement and prayyth that the seyð abbot may be punysheyd for hys vnlawfull vexacion Contrarye to the order of the kyng oure souerayng lordes lawys in thys behalfe purveyd.² And as to the occupacion and manevranse³ of the office of the stewardshyppe of the manours londes and tenementes in the Countye of Westmoreland belongyng to the seyð monestary, the seyð Roberte seyeth that the kyng our Souerayng lorde and hys most deryst sone, my lord prynce, Commaundyd the seyð Roberte to occupye and excersyse the same Offyce vnto suche tyme that hys grace or my lord prynce Commaundyd hym to leue the occupacion of the same offyce. All whyche maters the seyð Roberte woll auere as thys Corte schall awarde, And axyth Jugement yf the kyng oure Souerayng lord or my lord prynce of thys article natt Councellyd with all⁴ if⁵ thys Corte⁶ therin⁶ eny further ought to procede. All whyche maters the seyð Roberte ys redy to prove as thys Corte wyll awarde and prayth to be dysmyssed with hys resonable Costes for hys wrongefull vexacion⁶ & trouble⁶ in thys behalfe.

¹ Less.

² Apparently for 'purveyed,' i.e. provided.

³ Manurance generally means cultivation; here, exercise.

⁴ This is a translation of the Latin common form 'et petit iudicium si Rege inconsulto Curia debeat ulterius procedere,' as will appear if brackets be read after 'yf'

and before 'if' and the 'if' be struck out. Cf. 'the argument of Sir Francis Bacon, Knight, A.G., in the King's Bench in the case *De Rege Inconsulto*,' &c. Bacon's Works, ed. J. Spedding and D. D. Heath (1859), vii. 687.

⁵ Sic; apparently 'o' has been erased and 'i' substituted.

⁶⁻⁶ Interlined.

BUTLOND & OTHERS *v.* AUSTEN & OTHERS.¹

A.

To the kyng our soueraigne lord

1507 In the moost humble and lamentable wyse beseechen and shewen vnto your moost habundaunt grace your humble subgettes and true liegemen the Felishipp of the crafte of Founders of your Citee of London² that where an acte was made amongst other in your noble parliament holden at Westminster the xixth yere of your moost noble Reigne, that no Wardeyns nor masters of any Crafte Fraternite or Guylde Corporate or not Corporate shall make any statutes or actes withyn them self or Execute any Statutes or actes before made, that be in derogacion of your heighnes or hurt of your Comons without the same Actes or statutes be before examined and allowed by the Chaunceller of England or by your two Justices or by your Justice of peace of that your countee where suche Acte or statute shalbe made or executed vpon payne to forfaitte to your heighnes at euery tyme xl li.³ and where oone Randolf Austyne⁴ Founder subtilly entending his owne singuler lucre and the vtter vndoing of your seid suppliauntes of his own auctorite and power made an acte amongst your said suppliauntes that they or any of them should not sell any candell styk chafyng disshe or other wares to any man not beyng of the seid crafte vnder such prices as he named vpon payne to forfaitte such sommes of money as he assigned by his seid acte at euery tyme doying

¹ S.C.P. Hen. 8, Bundle 19, No. 347.—Wrongly sorted. The evidence that this suit belongs to the reign of Henry 7, and not to that of Henry 8, is derived from the names of the parties to it, from the 'Annals of the Founders' Company,' edited by W. M. Williams in 1867, and from the Exch. K. R. Memoranda Roll for M. T. 21 Hen. 7. The precise year to which the case belongs is also ascertainable from the same sources. On 5 Oct. the original information in the Exchequer was laid in M. T. 21 Hen. 7 (1505) (see Append., p. 279). The petition was lodged in the Star Chamber, we are told ('Annals,' p. 50), by the new Master and Wardens in the following year. At this time the Wardens entered office on St. Clement's Day, November 23 ('Annals,' p. 45). The date indorsed is 'xiiij die Novembris,' on which day it may be inferred that the petition was lodged, since another indorsement fixes the hearing for the morrow of the Ascension. It follows that November 14 must be in 1507 (see also B,

p. 265, n. 15, *infra*), and that the hearing must have been fixed for June 2, 1508. This is corroborated by the tenour of the award of Sir L. Aylmer, which is dated October 26, 24 Hen. 7 (1508), regulating the future government of the Company. See n. 9, *infra*.

² The ordinances of the Mistery were first enrolled on July 29, 1365, in the Rolls at the Gild Hall. They are set forth by W. M. Williams, 'Annals of the Founders' Company' (1867), pp. 4-9.

³ 19 Hen. 7, c. 7 (1504). 'De privatis et illicitis statutis non faciendis.' See *Intro.* p. eli.

⁴ Randolf Austyne, or Randolffe Austyn, of St. Margaret's, Lothbury, London, Master of the Founders' Company in 1506, 'Annals,' p. 50. Will proved 1507. J. C. C. Smith, *Index*, i. 26. The Founders' Hall was at the west of St. Margaret's church, 'seated at the upper end of Founders' Court.' J. Stow, *Survey* (ed. J. Strype, 6th ed. 1754, i. 577).

the contrarie and that acte so made the same Randolf seid vnto your seid suppliauntes that rather than any of them shulde breke the same his acte, that they shulde bryng their wares vnto hym and that he wold geve them redy money for their wares after the fourme folowyng, that is to sey, that whére his acte was xij d. he wold geve viij d. and where he set hit at viij d. he wold geve v d., and so your seid subgettes for fere of brekyng of the seid Randolfs acte brought moche ware vnto the seid Randolf and sold hit to hym after his owne price and many tymes better chepe than he before graunted to pay, wherthurgh the same Randolf takyng no regarde to his seid owne Acte but such wares as he had of your seid suppliauntes for xvj d. he sold for ij s. and xxij d., and that he had for x d. and sumtyme for ix d. sold hit for xvj d. and sumtyme at xiiij d., at his owne pleasure puttyng his owne acte clerely apart and therby gate great goodes and brought many of your seid suppliauntes into so great pouertee and myserie, that they haue neither candelstyck nor metall to make a candelstyke of, to their vtter vndoing, where yf they myght haue sold their owne wares at their owne libertee as they haue doone in tyme paste, without punysshement of the seid Randolfs Acte, they myght haue sold for xxij d. to other men that they sold to the seid Randolf for xvj d., and sum that they sold vnto hym for x d. and sumtyme for ix d., might haue sold hit for xiiij d., and so myght haue had their competent levyng, and now by meane of his seid acte be vtterly vndoone, and where afterwarde the seid Randolf Austyn and Robert Setcole⁵ and Edmonde Byrde⁶ late Wardeyns of the seid Felishipp contrarie to your seid Acte executed the seid Acte made by the seid Randolf in the seid Felishipp and took of oone Thomas Basset of the same Felishipp iij^s iiij^d for a Fyne, for that that the seid Thomas Basset sold certeyn candelstyckes vnder the price that the seid Randolf had made in his seid Acte, And that the seid Thomas⁷ Basset than gave therof informacion to the Barons of your Escheker, the which your Barons therupon made processe chargid accordyng to your seid Acte ayenst the seid Randolf Robert Setcole and Edmond Byrde and was pleted to an issue and tried and past with your grace at a nisi prius at Seint martyns the Graunde⁸

⁵ Robert Setcole, Warden of the Founders' Company in 1497 and 1506, 'Annals,' pp. 45, 50. Will proved as of St. Laurence, Olde Jurye, London, 1507. J. C. C. Smith, Index ii. 473.

⁶ Edmonde Byrde, otherwise Borde, Warden of the Founders' Company, 1497 and 1506. 'Annals,' pp. 45, 50.

⁷ Robert in 'Annals,' p. 50. See n. 10, infra.

⁸ By the first charter of Edward 3, dated March 6, 1327, it was granted to the citizens of London 'that all inquisitions from henceforth to be taken by our justices or ministers of the said city shall be taken in St. Martin's le Grand in London and not elsewhere, except the inquisitions to be taken in the circuits at the Tower of London and for the gaol delivery at Newgate.' W. de G. Birch, Charters of City of

in your Citee of london and the seid Randolf Robert Setcole and Edmonde were there caste vnto your heighnese in xl li., ouer and above the costes, and for payment therof and for such costes as the seid Randolf Robert Setcole and Edmond have spent in your lawes⁹ by reason of the premisses haue without assent or knowlege of your seid suppliauntz embeseled sold and spent all suche money juels and goodes as belonged to the seid hool Felishipp the whiche they in tyme passed had of the gift of other well disposed persones, to their comon wele towardses their charges¹⁰ that amongst their Felishipp should be levyed and paide to your heighnes for their part withyn your seid Citee and otherwise to the charges and honour of your same Citee, And theryn your seid suppliauntes be without remedie¹¹ to their great vndoing for euer, For now ther woll no persons take vpon them to be rulers of them in seying the good rules and orders amongst

London (1887), p. 58. In 1545 the Acte of 1532 'concernyng perjurie & punysshement of untreue verdictes' (23 Hen. 8, c. 3) having ordered Attaints to be tried before the Courts at Westminster, the City protested against this breach of its privileges, and cases affecting citizens were ordered to be tried at the Gildhall (37 Hen. 8, c. 5).

⁹ An entry in the records of the Founders' Company runs as follows:—'24 Henry 7, Oct. 26 (1508). Aylmer, Maior. By the asente and consente of all the hool feleshippe both Old and Yonge. Praying the Wardens to labor on to the Lord Chancellor to haue ouer Acts and Rules corrected that the Crafte myte beharmless ayenst the Kyng our Soveryng Lord, nottwithestanding oon of the semplesse persons of all the feleshippe whose name is John Sandeforde of evyll and gret melesse, presented the Wardens into the Cheker, for that they had made an Acte contrary to the Parlement, wheruppon they were tryde by the Law, which gave the Crafte gret coste and put the Wardens in gret fer that they dorste not do no ponychement in the time of ther yer nor gader no quarterage, nor take no mony for ablyng of no prentyssees, Whereuppon the Wardens take nothyng to help the charge upon the aforesayd matter.' 'Money spent in the Cheker the first terme. Sum Tottalle iiij li. x s. v d.' W. M. Williams, 'Annals,' p. 13.

¹⁰ The following passage relating to these transactions is in the 'Annals,' p. 50:—

'1506. Mem.—The 21st year Henry 7, then being Wardens Randolphe Austen Maister, Edmonde Borde & Robert Setcoll, Robert Bassett presented them in the Court

of Exchequer for takyng of hym a fyne of 3³/₄^a for which they were condemned in a penalty of 40*l.*, for which they sold the plate and w^t the money that they toke for the juells and w^t the money that was in the Boxe they went and payd it unto the Tresorer, and so they were clerly discharged agenst ouer Soveryng Lord the kyng. And the immediately servyng next, in the 22nd yere of the Kyng, the Master and Wardens w^t many others thus seeing the goods goon and loste by reason of the takyng of presumption of the mind of the forsaid Randolphe Austin the sayd fyne of 3³/₄^a w^t owte any consell of any of the feleshippe of the Crafte, the new Master and Wardens toke Consell, and so caused him to be called before my Lord Chancellor into the Star Chamber, and caused the sayd Randolfe, with the other too, to make and bryng forthe all the goods, plate, redymony and other things that belongyd unto the Crafte as good as ever it was before the sute, to the grete cost and damage of all the outhers before named and to the grett hyndrance, they bering the cooste of all the hool matter upon ther owne goodes.'

¹¹ 'But it hath been heretofore much questioned, Whether several men might join together in one suit for several matters? And some judges have certified that they could not in this court more than at the common law; and the reason they yielded was for that one man might by that means maintain another man's suit. But assuredly it is no good reason, for that every suit in this court is the king's suit, and it is lawful for any man to maintain the king's suit.' W. Hudson, 'Treatise of the Star Chamber, Collectanea Juridica' (1792), ii. 130.

them obserued and kept,¹² without your moost habundant grace to them the souner be shewed in this behalf, That hit woll therfore please your heighnesse the premisses tenderly to considre, and therupon of your moost habundant grace to commaunde the seid Randolf Robert Setcole and Edmond to come before your heighnes or before the lordes of your moost honorable Councell there to aunswere to the premisses, and such direccion theryn than to be sett as your seid suppliantz mowe¹³ be recompensed & restored of their seid money juels and goodes, and also now be set in such wey as they may haue honest men of their Felishipp assigned and chosen to se the good ordre and rules of their Felishipp obserued and kept as they haue doone in tyme past. And this at reuerence of god and in wey of charite, and your seid suppliauntes shall specially pray to God for the preseruacion of your moost roiall persone and excellent astate.

Plegii de prosequendo Johannes Roo de london yoman & Willelmus Doo de eadem yoman.

¹⁴ John Rympyngden.

Indorsed. xiiij die nouembris.¹⁵

Founders. Randolf Austyn sworn saith that to ¹⁶

Scilicet coram domino Rege & Consilio suo in Crastino
Ascensionis Domini proxime futuro.

¹² This statement as to the disorganisation of the gild is corroborated in the passage in note 9, *supra*.

¹³ Old present subjunctive of 'may.' See R. Morris, 'Historical Outlines of English Accidence' (3rd ed., 1873), p. 186.

¹⁴ In another hand. The name was perhaps that of the counsel who drafted the petition. It does not, however, occur in the lists of counsel practising in the courts during the reigns of Henry 7 and Henry 8, as collected by E. Foss in his 'Lives of the Judges' (1857), v. 20, 107. The will of John Ryppyngden of St. Martyn, Salisbury, was proved in 1516 (J. C. C. Smith, Index, ii. 461), which is not improbably the same name, the sign for the 'm' being omitted.

¹⁵ The new ordinance, which was the cause of the subsequent litigation, is stated in the information dated Mich. term 21 Hen. 7 (1505), on which the case was tried in the Exchequer (see Appendix, p. 279), to have been passed on June 16, 20 Hen. 7 (1505). According to the defendants before the Star Chamber, R. Austen was master (p. 264, n. 10), and Edmond Byrd and Thomas Halyfax wardens (see p. 267). The information, however, which was laid by one William Venables, states that the

persons who were the authors of the ordinance were R. Austeyn, Edmund Byrde, and Robert Setcole, whom it describes as wardens, not distinguishing R. Austen as master, in which last point it agrees with the defence before the Star Chamber (p. 267). That defence traverses the allegation that Setcole was a warden at the time the ordinance was made (*ibid.*).

The assumption of office by the master and wardens appears to have taken place on Nov. 23 annually (p. 262, n. 1). According to the 'Annals' R. Austen was master in 1506, i.e. presumably from Nov. 23, 1505, to Nov. 23, 1506. It seems to be common ground that Byrde was a warden for the same year (p. 263 and p. 267). Possibly the new master and wardens were elected at Michaelmas to enter upon their offices on Nov. 23 following, so that the information of Mich. Term 1505 was laid against those who would be in office at the time the case came on for hearing, and therefore against Setcole and not against Halyfax, who may be taken to have vacated office on Nov. 22, 1505. The case was tried in the Court of Exchequer in Easter term 21 Hen. 7 (1506). See Appendix, p. 282.

It would seem that there were two sets of informations laid. The information

- B. Thanswer of Randolf Austen Robert Setcole and Edmond Byrde to the Byll put ayenst them by¹ John Butlond Thomas Bassett William knyght² Thomas Sweting humfrey Walker John parker³ Richard Fynche and Thomas perkynson in the name of the felyshipp of the craft of Founders in London.⁴

The said Randolf Austen Robert Setcole and Edmond Byrde sayn that the said Bill is vncertain and insufficient to be answerd vnto and vntruly faynd of greate malys withoute cause or grounde reasonable by the said persones plainityfes withoute thassent of the said felyshipp for the vexacion and trouble of the said Austen Setcole and Byrde and the matter in the said bill conteyned ys determinable att the common law and not in this courte, And they for any thing therin comprised owen not by the lawe to make answer and for the insuffyence therof they prayen that the said Bill may abate. Neuertheles thaduantage of the premisses to them sauid for declaracion of trouth

laid by Venables and printed in the Appendix alleges the 'making' of the Act impugned, and this harmonises with the answer of the defendants on p. 266. It was for this offence also that the information was laid by John Sandefforde, as stated in the 'Annals' (see p. 264, n. 9, *supra*). But the examination of R. Austen (p. 270) shows that Setcole was condemned in the Exchequer, not for making, but for executing the illegal ordinance or Act, and the 'Annals' represent such an information to have been laid by Robert Bassett, presumably the person called Thomas Bassett in the answer of the defendants before the Star Chamber (p. 267). The 'making' and the 'executing' such an Act were independent offences, each punishable by a fine of 40*l*. This last information I have not been able to discover in the Exch. K. R. Mem. Rolls for 21 Hen. 7, but a comparison of these statements certainly suggests that the master and wardens were mulcted by two separate informations, each time in 40*l*. Doubtless a number of persons laid informations upon each charge, for the reason given on p. 264, n. 11.

The wardens in 22 Hen. 7, i.e. from Nov. 23, 1506, to Aug. 21, 1507, when the regnal year ended, were John Butlond, master or senior warden, Thomas Bassett, and William Knyght (see p. 264, n. 10). The petition filed by these and others before the Star Chamber is indorsed Nov. 14. This is therefore, presumably, Nov. 14, 1507, nine days before they quitted office. The 'Annals' unfortunately

do not furnish a list of wardens.

¹⁶ The writer apparently had intended to take the depositions down on the dorse, but stopped at 'to.'

¹ The three names following were those of the master and wardens from November 23, 1506, to November 23, 1507. See A, p. 262, n. 1, and p. 264, n. 10, *supra*. The reason of the selection of eight to represent the company is probably that they formed the Court of Assistants. See 'Annals,' p. 14, n.

² This answer was put in between Nov. 14, 1507, the date of the indorsement of the petition, and the morrow of the Ascension following, i.e. June 2, 1508 (p. 265). As the answer states that Austen, Byrd and Halyfax 'yet ben Wardens,' it follows that a reaction in their favour must have taken place, and that they must have been re-elected on Nov. 23, 1507. But as the answer speaks of Austen and Setcole as both alive, and we know that their wills were proved in 1507, this answer must have been filed between Nov. 23 and the close of the year. The morrow of the Ascension, fixed for the hearing, was in Easter term 1508, in which term or the succeeding Trinity term the case was probably heard, for on Oct. 26, 24 Hen. 7 (1508), Sir L. Aymer settled the outstanding question of the custody of the restored chattels of the Company (p. 271, n. 10).

³ 'Otherwise called John Sena,' Warden in 1497. *Ib.* p. 45.

⁴ In 1501 the Founders' Company consisted of 22 members. 'Annals,' p. 213.

in the premisses they sayen that ther was communycacion amonges the said hole felyshipp commonyd⁵ in the tyme that the said Austen Edmond Byrd and oon Thomas halyfax⁶ wer wardens whiche yet ben wardens, that forasmoche as dyuers persones vsyd to make sale of diuers wares apperteynyng to the said mystere or craft ferre better chepe than the charge therof cost and stood them ynne for the making and stuf of the same to the impouerishment of the same sellers and to the hurte and preiudice of all the hole felyshipp. Wherefore yt was comonyd⁷ emonges them in what wise and price they myghte sell their wares so that they myghte haue a conuenient lyuyng therby, and yt was thoughte emonges them that a chafing callid a mydyll dyssehe could not well be sold vndre the price of xiiij d. and a candilstik callid a small lampe vnder the price of viij d. and a candylstyke called a greate lampe vndre xij^d yf they shuld lyve therby and vpoun this communycacion the said felyshipp departid after whiche communicacion by the crafty meynys of the said Thomas Bassett and for couetous⁸ and lucre ayenst all good consciens and charyte put an informacion in the kinges Eschequier ayenst the said Randolf Edmond Byrde and Robert Setcole calling them wardens of the said felyshipp of foundres where of trouthe the said Setcole was none of the wardyns nor yet ys not⁹ supposing that they and othre of the said felyshipp shuld make an acte contrary to the statute of the last Acte of parliament made that none felishipp shuld make ordenaunces vpon pain of xl li. the one half therof to the king and the other half to the suter, that none of the said felyshipp shuld sell a grete lampe vndre xij d. and a small lampe vndre viij^d and a chafing dyssehe vndre xiiij d. vpon pain who so euer dyd the contrary to forfeit iij s. iiij d. to the said felyshipp and that as oftyn as any suche case shuld happen vpon which informacion by the sinistre meynys and labour of dyuers persones they were condempyd in the somme of xl li. whiche ys content and paid whiche was by thassent & agrement of the most honest and substanciall persones of the said felishipp aswell of them that haue ben wardens as of othre that ys to sey of the goodes and Jewelles of the said felyshipp xx li.

⁵ Acquainted, told. Cf. Udall etc. (1548), tr. Erasm. Par. John, 58a. 'After these thynges were commoned to & fro from one to another.' J. A. H. Murray, 'Eng. Dict.', s. v.

⁶ Also warden in 1514, when there was a further dispute about the plate ('Annals,' p. 51). There seem to have been sometimes two and sometimes three wardens, e.g. three in 1508 (see *ibid.* p. 14) and 1579 (*ibid.* p. 20), and two in 1519 (*ibid.* p. 51).

By the charter of James I. (1614) the number was fixed at two. *Ibid.* p. 26.

⁷ Here in the sense of 'discussed.'

⁸ Cf. p. 24, n. 22.

⁹ Setcole had apparently served from Nov. 23, 1505, to Nov. 22, 1506, whereas the ordinance complained of had been passed on June 16, 1505, and this answer belongs to Nov. or Dec. 1507. See A, p. 263, n. 5, also p. 265, n. 15, and p. 266, n. 2, *supra*.

and the othre xx li. of their owne goodes bysyde their costes in suyte which amountyd to x li. and aboue, Wythowte that that the said Randolph Austen subtylly intending his owne singuler weale & lucre and the vtter vndoing of the said felyshipp of his own auctorytie made any such Acte emonge them as by the said Bill of complaint is surmytted and withoute that that the said Randolph said vnto the said John Butlonde and othre of the said felyshipp that rather than any of them shuld breke the same his acte that they shuld bring their wares vnto hym and that he wold gyve them redy monye for the same wares after the fourme and prises surmyttid in the said bill of complaint Or that the said Butlonde and othre of the said felyshipp for feare of breking of any suche act broughte any suche ware to the said Randolph and sold yt hym affir his owne price or better chepe than he byfore grauntyd to pay Or that the same Randolph sold any suche wares for ij s. as he boughte for xvj d. or that he boughte any suche ware for x d. and sold yt for xvj d. and therby gate greate goodys and broughte many of the said felyshipp in grete pouertie and mysery in maner and fourme as ys surmyttid in the said bill of complaint Butt that the same Randolph vppon good sufficient suertie wilbe glad to delyuer the same wares ayen to them for the monye that he paid for them And withoute that that they myght haue sold the said good at any suche price as ys specyfyed in the said bill of complaint and so have had their competent lyuyng but only for any suche acte made by the said Randolph And withoute that that the said Randolph Austyn Robert Setcole and Edmond Byrde contrary to the said act of parliament executid any suche act made by the said Randolph in the said felyshipp or took of the said Thomas Bassett the said iij s. iiij d. for a fyne for that the said Thomas Bassett sold certen candilstykes vndre the said prices supposid to be in the said acte made by the said Randolph in maner and fourme as by the said bill of complaint ys surmyttid And withoute that that the said Randolph Robert Setcole and Edmond Byrde for suche costes as they had spent in the lawe in defens of the said suyte in thescheker withoute thassent and knowlage of the said felyshipp embeselyd sold and spent all suche monye Jewelles and goodys as bylongyd to the said hole felyshipp in maner and fourme as ys surmyttid by the said bill of complaint And without that that there be no persones to take vppon them to be rulers of the said felyshipp for the good rules and ordenaunces to be restorid and kept among the same felyshipp in maner and fourme as yn the said bill of complaynt ys surmyttid. ALL whiche matters the said Randolph Robert Setcole and Edmond Byrde ben redy to proue as this court will

awarde wherefor they prayen that they may be dysmyssed from hens with their reasonable costes for their wrongfull vexacion in this behalf.

Indorsed. The Founderes materr.

- c. The replicacion of John Butlond Thomas Basset William Knyght Thomas Sweting humfrey Walker John Parker Richard Fynche & Thomas Perkynson & the substans of all the oder of the seid Felishipp to the aunswer of Randolf Austen Robert Setcole and Edmond Birde.

The seid John Thomas William Thomas humfrey John Richard & Thomas and all the oder¹ substans of the seid Felishippe seyn that their seid bill is certeyn and sufficient to be answerd vnto and the mater therin conteyned true & not feyned and that the same compleynt is made by the said Felishipp and by their hole assentes apou true & resonable groundes & greuouse causes to be reformed by the kynges highnes & his most honorable Councell & not at the Comen lawe and ouer that they seyn in euery thing as they haue seid in their seid bill of compleynt. And that vppon the seid Communi- cacion hade bitwene the seid Austen Setcole & Birde in suche wise as is specified in their seid answer for their singuler lucre & aduantage made² an Acte & ordynaunce in the seid Felyshipp that no man shuld sell eny candylstik chafyng dysshe or oder wares to any man but oonly to them of the same craft vnder such price as they then sett and vppon payne of forfiture for euery tyme xl d. to the grete vndoyng of the poure men of the seid Felishipp and ayenst the comen wele of this lond which acte & ordynaunce the seid Austen Setcole & Birde made for their own singuler profett & aduantage and wrong- fully put in execucion to the great vndoing of your seid besechers and to the great aduauntage & profite of the seid Austen Setcole & Birde & oder for the whiche the seid informacion was truly giffen ayenst them for the kynges grace³ and truly founden and they con- dempned for their own offences. And for asmoche as they haue confessed by the seid answer that they haue taken the money juelles & goodes belonging to the seid Felishipp to content & pay the seid condempnacion your seid compleynautes prayen that⁴ may be

¹ An erasure of about an inch in length follows.

² Interlined, the insertion of 'they' being omitted.

³ 'The commencing of prosecutions by Information had grown into common use in the reigns of Henry 6 and Edward 4, and

were (sic!) generally confined to pena statutes and likewise to the Court of Ex- chequer and King's Bench.' Reeves, 'Hist. of Eng. Law' (ed. W. F. Finlason, 1869), iii. 158.

⁴ 'They' omitted.

compelled to restore it to the seid Felishipp, And also all suche oder goodes & juelles as they haue or hade belongyng to the seid Felishipp and also to restore your seid suppliantes to suche costes & damages as they haue putt them vnto according to right & goode consciens. Without that that the seid xx li. or any peny of the seid condempnacion⁵ was paid of the goodes & juelles of the seid Felishipp was paid by the assent & aggrement of the most honest & substanciall persons of the seid Felishipp or by thassent & aggrement of any oder person then of the seid Austen Setcole & Birde as is surmitted by the seid answer, all whiche maters the seid John Thomas William Thomas humfrey John Richard & Thomas ar redy to proue as this Court will awarde and prayen as they haue prayed in their bill of compleynt.

D.¹

Randolf Augustyn sworne vpon this answer deposithe and saith that true it is that among the felishipp of Foundours in London such an acte was made for sale of thair waris as in the byll of complaint is specified, but he denyeth that euer it was made by him onely, but it was made as he saith vpon such consideracions as in the within wreten answer it is declaryd by communicacion first had in this deponentes hous wher he dwellith betwixt him and other of the best of the said craft, that is to say Robert Setcole, Edmund Bird Thomas Halifax Robert Wellys,² Robert Pynchbeke,³ John Payn, Robert Storye, John Parker and diuers other of the clothing⁴ of the said felishipp now not in this deponentes remembraunce, all which persons assembled to gether in the hous of this deponent at a season sith the fynysshing and ending of the last parlement⁵ condescendyd agreed and concluded that the said acte shold be made in the hoole crafte aforsaid to be kepte forthon. And for the mor suretie therof thay agreed to do call all the hoole companye of Founders aswele thoos that wer in the lyverye as not⁶ for thair assent to the said acte, and

⁵ 'That' omitted.

¹ This document is upon the dorse of the answer B, and bears the marks of having been hurriedly penned.

² In the Annals of the Company appears the following entry, which throws a light upon the character of this person: 'Re-cvied for fynes. First of Maister Chambleyne of London for a fyne lost by Robt. Wells for romaunce, ij d.,' i.e. for a false story. 'Annals,' p. 46.

³ Apparently Warden in 1496. See ib.

⁴ I.e. the Livery. 'Certain persons were

put in Nomination to come upon the Clothing.' September 24, 1646. Annals, p. 100.

⁵ 1504. See C. H. Parry, 'The Parliaments and Councils of England' (1839), p. 198, n. (t).

⁶ 'Brethren of the Craft, being out of the Clothing,' were subject to the rules of the Company, but not allowed the privileges of the Liverymen. For instance, they might only take one apprentice, whereas a Liveryman might take two. See the Articles of the Company of April 2, 2 Henry 7 (1489). Annals, p. 10.

thay ther vpon wer assembled in the house also of this deponent and vpon the shewing of this deponent Robert Setcole Bird Halifax and other of thinconueniences and damage that fell of the sales at sondrye prices of thayr waris vsed among thaim, thay all wer then and there agreed to the said acte, and thos that now complayn wer besyest to haue that acte made among thaim insomuch that thay set the price of euery thing as thay haue said in thair complaint. Item to the second parte of this answer he saith that true it is that Thomas Basset was ceassid⁷ at iij s. iiij d. for breking of the said acte which he broughte to this deponent and therupon he bar it to the chamberlayn of London which hath euermore the oone half of all suche forfeates, For taking of which this deponent Setcole and Bird wer condemnid by a Nisi P(rius)⁸ at saint martins in xl li. for comyng agen the said acte of parlement. Hoube it he saith that the same fyne of xl d. was ceassid by the hole felishipp of Founders and for payment of the same xl li. the said Setcole⁹ movyd fyrst for sale to be made of the plate of the felishipp to pay the king xx li. half of the said xl li. and at the first this deponent wold not agree therunto but said it was not wele doone to sell that was geuen to the felishipp by good men but in conclusion he coude not as he saith bring bird Setcole and Halifax to the contrarie but that they wold haue it sold & so by thair assentes & steringes it was sold for xx li.¹⁰

MAYDESTON, WILLIAM GROCYN, MASTER, AND THE BRETHREN
OF ALL SAINTS AT, v. KEMPE.¹

To the kyng our souereign lord

1508 In moste humbly wyse sheweth vnto your Highnes your contynuall
bedemen William Grocyn² maister of the College of all seyntes of

⁷ Cessed, assessed.

⁸ Document illegible.

⁹ Observe that the principal blame is laid upon Setcole, who was perhaps by this time dead. Cf. A, p. 263, n. 5, and B, p. 266, n. 2, supra.

¹⁰ After the judgement of the Star Chamber in favour of the plaintiffs Sir Lawrence Aylmer, Lord Mayor, was called in to reorganise the Company. The Annals give 'The award of sir Lawrence Ailmer Lord Maior as to great variance and discord in the Founders' Company' as follows:

'Be it remembered that lately there hath been great variance and discord between the Wardens and other the Livery of the

said Crafte on the one part and the Yeomanry on the other parte, as well for the Custodie of certain plate, Napyre (i.e. table linen), Money and other Juells belonging to the said Crafte as for other Misdemeanours.' The award then recites that both sides have been heard by the mayor and proceeds: 'Forasmuch as the plate belonging to the said Crafte in time past hath been sold by them that had it in their keyping,' the plate to be henceforth locked in a chest with four locks and keys and to be kept in the chapel of St. Clement (the Company's patron saint) in St. Margaret's, Lothbury. 'Annals,' p. 14.

¹ S.C.P. Hen. 7, No. 111.

² The celebrated Greek scholar, the

Maydeston in the Countie of Kent³ and the brethren of the same College, that Where as there was a certayn communicacon betwen your seid Oratours and one sir Thomas Kempe of the seid Countie Knyght⁴ of a leace to be made for certayn yeris by your seid Oratours vnto the seid sir Thomas of the manour of Tremworth with thappurtenaunces except and reserued vnto your seid Oratours the advoson of the Chirch of Cromedale in the same Countie Whan hitt shold happen to fall voide⁵ vppon which communycacon hitt was agreid that a Note of

friend of Colet and Erasmus, born about 1446; appointed by his friend Archbishop Warham to the Mastership of the Collegiate Church of All Saints, Maidstone, April 17, 1506; died and was buried there in 1519. See 'Dict. Nat. Biog.,' Dugdale, 'Monast. Anglican.' vi. 1394.

³ The Collegiate Church of All Hallows or All Saints, Maidstone, was founded by Archbishop Courtenay on August 2, 1396, when there was incorporated with it the 'hospital of the New Work,' which had been established here by Archbishop Boniface in 1260, and the parish church of St. Mary. It consisted of a master and six chaplains. The licence of Richard 2 for its foundation vested the advowson and patronage in the archbishops of Canterbury. It received an endowment of lands in the parish of Maidstone from Grocyn (M. Burrows, 'Memoir of William Grocyn,' Oxford Hist. Soc. 1890, Collectanea, ii. 363). It was dissolved in 1547, at which time its net yearly revenues amounted to 159l. 7s. 10d. (Dugdale, l.s.c.). Extensive remains of it are still to be seen (J. Murray, 'Handbook to Kent' [1892], p. 198). See also Beale Poste, 'History of the College of All Saints, Maidstone' (1847), where Grocyn's will, dated June 2, 1519, is printed, p. 133.

⁴ Only son and heir of William Kempe of Ollantigh in the parish of Wye, Kent, esquire, elder brother of Thomas Kempe, bishop of London, whose heir Thomas Kempe the nephew became on the bishop's death in 1489. The bishop was the nephew of John Kempe, cardinal archbishop of Canterbury (d. 1447), who was, therefore, Sir Thomas Kempe's great-uncle. Sir Thomas Kempe was born in 1445, being found by the Inquisition post mortem on Bishop Kempe to have been 44 years old and more on May 8, 1489. By the death of the bishop he became a considerable landowner, inheriting the manors of Bocton Alulph or Boughton Alulph, Ashenfield or Asshemersfeld, and Stoutyng Hadlowe, besides lands in Henhurst, Staplehurst, and elsewhere in Kent (see Inq. post mortem, Hen. 7, i. 380; Hasted's 'Hist. of Kent,'

iii. 59, 62, 181, 191, 314, 742). Although of strongly Lancastrian connexions, he seems to have accepted the Yorkist dynasty, for in 1482 he was one of the commanders of a body of a thousand Kentish archers dispatched to the defence of Calais (Pat. Rolls, 22 Ed. 4, pt. i. m. 7 d, p. 322), and on May 1 and Dec. 8, 1484, he was nominated by Richard 3 a commissioner of array for the Cinque Ports in order to resist the apprehended invasion of Henry Earl of Richmond (Pat. Rolls, 1 Ric. 3, pt. ii. m. 21 d, p. 397, and 2 Ric. 3, pt. i. m. 19 d, p. 492). It is probable that he was at this post at the time that the battle of Bosworth was fought. He doubtless accepted with satisfaction the accession of Henry 7. He served as sheriff of Kent in 1492-3, 1505-6, and 1512-13 (Hasted, I. lxxxix, xc, xci), being the first of his family with land adequate to this position. He was nominated a commissioner to raise the subsidy in Kent in 1496, and again in 1503 (Rot. Parl. vi. 518, 538). Upon the occasion of the marriage of Arthur prince of Wales with Katharine of Aragon, Nov. 17, 1501, he was dubbed a Knight of the Bath (W. C. Metcalfe, 'Book of Knights,' p. 36). He married Emelyn or Emeline, daughter and co-heir of Valentine Chiche of the manor of The Dungeon, Canterbury, by Philippa, daughter and co-heir of Sir Robert Chichele of Goodneston, knight, mayor of London in 1411 and 1421, and brother of archbishop Chichele (Hasted, ii. 814). By her he left several children (id. iii. 170 n. [s]). See further H. H. Drake, 'Hundred of Blackheath' (1886), pp. 112 n., 148 n., 189 n. He died in 1520 (Hasted, iii. 170), and his family became extinct in the male line in 1607 (id.). The inquisition post mortem found that at his death he held sixteen acres of arable land in Crondal and ten acres of pasture in Crondal and Wye of the College of All Saints at a rent of 18s. 4d. a year (see next note). Pegge, 'Monasticon Cantianum,' No. 4, in Gough's Collections in the Bodleian Library. Poste, p. 122.

⁵ By a charter of Richard 2, of which an Inspecimus is in the Patent Roll, 1 Hen. 4, pt. vi. m. 32, and is printed in Dugdale

Endentures shold be made of the leace and covenantes bytwene your seid Oratours and the seid sir Thomas Kempe and vppon the sight therof either of the parties to take theyre counsaill & to be aduised and thervppon the seid sir Thomas Kemp caused a Note to be made in which such articles were conteynd that your seid Oratours coulde not without theyre grett hurtt & losse agre ther vnto, and therefore both the parties refused to fynyshe the seid leace, which thyng notwithstanding graciouse lord the seid sir Thomas not onely hath presented a Clerk vnto the seid Chirch⁶ and trowbeled the possessyon of your seid Oratours in their seid advowson butt also entending to enioy and possed the seid manour by Colour of the seid communycacion agaynst the will of your seid Oratours and agaynst all ryght manasseth & threteneth vexeth and trowbleth one Michell Philepot to Whom your seid Oratours haue letton the same manour that the same Michell can not peasibly manure⁷ the seid londes nor take the profittes of the seid manour by force wherof your seid Oratours be likely to lese⁸ theyre rentes reserved of the same to their grett dammage and agaynst al right & consciens and so is hitt nowe gracyouse lord that the seid sir Thomas is in the seid Countie so gretly frended and of soo grett power ther that your seid Oratours be vnabill by the Course of the Comen law agaynst the seid sir Thomas to sue for their ryght and in this behalff be remediles except your gracyouse fauour be to theym shewid hit may like therefore your good grace the premysses tendrely consydred to graunt one writt of sub pena to be directid vnto the seid sir Thomas commaundyng hym by the same to appere before your good grace & other of your most honorable Councell in the Stere Chaumbre at Westminster there to answere to the premysses and ferther to doo as shalbe towght convenient by your good lordshipp and your seid

Monast.' VI. iii. 1395, the king granted to the master and chaplains of the college of Maydenstone the advowson of the church of Crundale together with the reversion of the manors of Tremworth and Faunes, Kent. According to Hasted (iii. 181, 182), the parish was sometimes called Crundal and sometimes Tremworth, and sometimes Crundale in Tremworth. The parish also contained the manor of Handloe, which was one of those inherited by sir Thomas from bishop Kempe (Inq. p. m. Hen. 7, i. 380). The Inquisition on bishop Kempe recites that 16 acres of land in Crundale, worth 13s. 4d., were held by the bishop of John Lee, clerk, Master and the Confraternity of the College of All Saints, Maid-

stone. The name of this master does not occur in Dugdale, l.c.; but Poste gives it from Archbishop Warham's Register as the name of the master from 1470 to 1494 (p. 34).

⁶ In the list of rectors in Hasted, iii. 187, there is a gap between the death of John Sprot, December 9, 1466, and the presentation of Thomas Nightingal in 1548. Sir Thomas Kempe, by deed of March 4, 1503, had given 'all the trees near or about the church yard of Crundal as a succour and defence to the church' (Hasted, iii. 185). See, as to the law touching wrongful presentations, Introd., p. cxxii, *supra*.

⁷ Cultivate.

⁸ Otherwise leese, 'lose.'

Oratours shall dayly pray to god for the preseruacion of your gracious highnes.

Indorsed. Master of the College of Maydeston.
In another hand. Termino Michaelis anno regni regis xxiiij^o 9
 M^r William grocyen clerk contra sir Thomas
 Kempe Knyghte.
In modern hand. Maidston College, Master of v. Kempe.

STRAUNGE, JANE, LADY, v. KENASTON¹

To the kyng our souereygne lord

1508 Humbely Shewith vnto your hignes your true and feythfull Subgett and wydowe Jane Stanley lady Straunge² howe that the last day of June last past one Humfrey Kenaston³ of Stokkes⁴ accompanied with many dyuerys persons in harnes with bylles⁵ bowes arrowez swordes bokelers and spears to the Nombre of xliiij in defencyble Array at Ellesmere in your marchez of Wales Adioynnyng to your countie of Salop forcybly entred the seuerell grounde and pasture of your said Complaynaunt in Ellesmere aforesaid and ther wrongfully cutte downe and Caried away sertayn grete ookes to the nombre of foure score and aboue to the vttr destruccion of thenheritaunce of your said complaynaunte, And ouer that the said Humfrey with the said mysruled Company the same day Ryoutslly made Assaute opou the offycers and seruantes of your said Complaynaunte and theyn and ther put in grete feayre and jeobardy of theyre lyues, And for so moche as your said Complaynaunte is enheritour of the said lordship of Ellesmere and by reason therof she ys a lady marchys after the Custome of the marchez of Wales havynge Jurisdicion and power of the Courtes there,⁶ And also that the said Ryott and mysbehaviour was done within the precynctes of the Jurisdicion of the Courtes of your said Complainaunte therfore yt ys

² October 9 to November 28, 1508.

¹ S.C.P. Hen. 8, Bundle 24, No. 384. Wrongly sorted.

² Only daughter and heir of John Le Strange, Lord Strange of Knockin, by Jacquetta, sister to Elizabeth Queen Consort of Edward 4, daughter of Richard Wydeville, Earl Rivers. On her father's death, October 15, 1477, she became suo jure Baroness Strange de Knockin, and her husband, George Stanley, was summoned to Parliament as a baron (Lord Strange) in

her right. He was eldest son of Thomas Stanley, lord Stanley, created in 1485 Earl of Derby. George Stanley was hostage to Richard 3 at the battle of Bosworth. He died December 5, 1497, Jane lady Strange died March 20, 1514. Will proved May 3, 1514. G.E.C., 'Complete Peerage,' iii. 69, 70.

³ See *Introd.*, pp. xc-xciii.

⁴ One mile N.N.E. of Ellesmere.

⁵ See p. 165, n. 5.

⁶ See *I trod.*, pp. xciii, xcv.

not semyng nor Convenient that your said Complainaunte should vse or haue any suete Agaynyst the seid humfrey and the other Ryoutouse persens within her owne Courte Therefore hit may pleayse your hyghnes to graunte your honourable letturs of privey seale to be dyrectid to the said humfrey Commandyng hym by the same to aper afor your highnes at a sertayne day and vndure a sertan payne by your grace to be lymytd to aunswer to the premisses And your said oratour shall dayly pray to god for the preseruacion of your moste noble grace long to endure.

Indorsed. Decretum est privatum Sigillum fieri ad comparandum coram consilio Regis apud Westmonasterium mense michaelis sub pena c li.

G. SYMEON.⁷

Termino michaelis anno xxiiij^o ⁸ Dame Jane Stanley lady Strange wedow.

JONES v. Lychfeld.¹

A. To the Kyng oure soueraigne lord

1509 In the most humble wise shewith and complaneth vnto your Highnesse your pouer and faithfull subgett Thomas Jones of the Citie [of Wynchester]¹ *¹ *¹ Iniuries and wronges doone to hym by oone john lychfeld in the tyme the same lichfeld was maire of Wynchester.²

First the said john lichfeld then beyng maire of the said Citie, of his fraward and malicious mynde without grounde or cause *¹

*¹ *¹ kept in prison by the space of iiij dais your said suppliant, and wold in noe wise suffre hym to goe at his libertye vnto such tyme *¹ *¹ *¹ and delyuered to hym in redie money xx s. where he neuer ought, nother was indebted to hym in oone peny.

Item the said John lichfeld wold haue compelled your said Oratour to haue delyuered hym an obligacion wherin oone Adam Wattys³ of W[ynchester]¹ [and]¹ John Boteller⁴ of the same mercer, stode bounde in xl li. to your said suppliant, for fere wherof your said Oratour was

⁷ Geoffrey Symeon, dean of Lincoln (1506) and a member of the Council, accustomed to sit as judge in the Court of Requests (Selden Soc. 1898, p. cxi, n. 15). He must therefore have signed here as a judge in his capacity of councillor. See *Introd.*, p. xlii.

⁸ October 9–November 28, 1508.

¹ S.C.P. Hen. 7, No. 2. Parchment torn.

² 1506. J. Milner, 'Hist. of Winchester,' vol. ii., App. vii.

³ Mayor in 1514 and 1529. *Ib.*

⁴ Mayor in 1508, 1510, 1517, and 1526. *Ib.*

compelled and * 1 * 1 * 1 Citie vnto london and to
 leyve his occupieng by the space of vj wekes & durst not come to his
 house nor visite his wif and children to the grete impouerishy[ng]¹
 * 1 * 1 * 1

Item the same tyme your said pouer Oratour beyng at london
 sende to his wiff to Wynchester for as many wollen clothes as a
 mounted * 1 * 1 * 1 he myght helpe hym selfe to lyve,
 beyng from his house and goodes. And assone as thesaid lichfeld had
 knowlege therof, he ymmediat[ly]¹ * 1 * 1 arrested thesaid
 clothes, and the same kept in his possession by the space of v wekes,
 soo that your said Oratour was put to grete losse and hynder[ance]¹
 * 1 * 1 instaunt labour and sute to haue his woollen clothes
 ayen, ayenst all good reason and iustice. In consideracion wherof,
 and that the said li[chfeld]¹ * 1 * 1 acqueyntaunce power and
 myght, and your said suppliaunt pouer and of small acqueyntaunce
 not beyng hable to sue for remedie of * 1 * 1 * 1 by the
 cours of the common lawe,⁵ it may pleas your highnesse of your
 habundaunt pitie to call the said John lichfeld by your writ of
 * 1 * 1 * 1 counceyll at Westminster to aunswere to the
 premisses. And your said Oratour durenge his liff shall pray god for
 the preseruacion of your noble as[tate].¹

Indorsed. Thomas Jones contra John lychfeld.

In another hand. Scilicet coram domino Rege & Consilio suo apud
 Westmonasterium a die Pasche proxime futuri⁶ in vnum mensem.

B. These been the answers of me John lychfeld
 ageyn a certen byll of complaynt proposid ageyn me
 by Thomas Johns of Wynchester afore the Knyges Cowncell.

Fyrst wher as Thomas Johnes sayeth that I John lychfeld late
 mayr of Wynchester shuld committ hym to prison and ther kepe hym
 vnto the tyme that he had delyverid me in redy money xx s., As vnto
 that, I denye not but I committed hym to prison and of hym receved
 the sayd xx s., but the cause was this. The sayd Thomas and his

⁵ 'So odious was unjust imprisonment, or unjust deteyning of any freeman in prison, as in ancient time there lay a writ de pace et imprisonmento &c. ubi liber homo &c. uno modo propter injustam captionem et alio modo propter injustam detentionem &c.' (E. Coke, 4 Inst. 182). Bracton, f. 145 b, says that in an appeal for imprisonment a civil action may be brought, although the act

be criminal. Britton (ed. F. M. Nichols, 1865, i. 123) says: 'Appeals of felony may also be brought for imprisonment of freemen and for every other enormous trespass, but for avoiding the perilous risk of battle, it is better to proceed by our writs of trespass than by appeals.'

⁶ March 31, 1509. See B, n, 7, *infra*.

felow bayly with hym of the Cyte of Wynchester whos name is Adam Wattes by reason that in gadering ther duetes belongyng to them for the tyme of ther Office in that that eche of them mistrustid other diuerse tymes eche of them reviled other with many vnfitting wordes opynly and in that they bothe offendid the statute of the Cyte ther-vppon made,¹ whervppon I seying in them no reformation of ther sayd mysbehaviour but dayly moved and vexed with ther forsayd vngodly demeanour callid vnto me my bretherine to the Towne hall and the sayd partiez also and ther they denyed not but eche of them had offendid the sayd statute of the Cyte whervnto they ware swarne, and thervppon by my commavndement and with the consent of my bretherne they ware committed to prison and there remayned vnto suche tyme as they agreed to pay the sayd xx s. for there Fyne in the sayd statute lymytted and inacted, wiche xx s. is levyed vnto the vse of the Cyte and not a peny to my syngler avayll and that I wulbe declared by the hole Cyte.

Also wher as he saith that I wold a compellid hym to delyver an obligacion wheryn John Butler and Adam Wattes ware bovynd vnto hym in xl li., That is of trewth, for wher as he and Adam Wattes ware bayles of Wynchester havying in ther handes by ther particuler receyttes of the Kynges money concernyng there Office of the Baliwyke xxxiiij li. vj s. viij d.,² and by reason wherof dayly ware diuerse and many Inconuenyentes and debates by twene them as is in the fyrst articull rehersed, I as mayr of the Cyte regardyng the duety of my sayd Office with the consent of my bretherne moved the sayd Thomas Johns and Adam Watts³ in avoydyng of suche debates³ to accompte afore ij Indifferent Auditours vppon there said particuler receyttes whervnto they both agreed and named John Belyngham⁴ and John Plommer ther Auditors afore whom they accomptid immediatly, and in the ende of the accompt concluded that Adam Wattes shuld recevey the sayd money and to pay it at the Kynges Escheker for ther both discharges and vppon this the same Adam Wattes

¹ 'At a Comon Convocation helde at Winchester the thyrd day of Aprill in the thyrd yere of the Raigne of Kinge Harry the fytthe after the Conquest, it was ordeyned and enacted that whatsoever fre man within the libertye of the cytie of Winchester dothe blaspheme or speake slaunderslye of the Mayor of the cytye aforesayd hereafter or of any bayliffe &c., &c., &c. . . . That then he which slaundereth any Mayre hereafter shall be imprisoned at the will of the Mayre & shall pay to the use of same x d. & he that slaunderthe any of the

officers aforesayd . . . that he shall be imprisoned as afore wryten and shall pay to the profit of the said cytye half a marke, without any grace of pardon,' &c., &c. C. Bailey, 'Transcripts from the Municipal Archives of Winchester' (1856), pp. 49, 50.

² Six months' instalment of the fee farm of a hundred marks (£66 13s. 4d.) paid under the original charter of King John. See Milner, i. 235.

³⁻³ Interlined.

⁴ Mayor in 1507, 1511, 1519, and 1527 Milner, sup. cit.

with sufficient suerty to be bovnd to the sayd Thomas Johns in xl li. and the same Thomas Johns to send with hym a man callid Mathew Mores at his proper cost & charge for company with the sayd Adam for the saue conveying of the same money and so Adam Wattes with John Butler his suerte sealed the sayd obligacion of xl li. and delyvered it vnto Thomas Johns the same Thomas promisyng me that at the commyng home of Adam Wattes and Mathew Mores aforesayd from the Kynges Escheker they bryngyng with them a sufficient discharge for the sayd money, to redelyver the said obligacion wiche he innowise wold doo⁵ nor yet doyth⁵ but sayd the sayd obligacion to be in his lernyd Cowncells handes and ther shuld remayn for hym wiche me thougth was ageyn his sayd promise made vnto me and also ageyn all right and conscience wiche I wold gladly a reformed with thaduise of my bretheren acordyng to right.

Also wher as he saith that I arested his clothes That is contrary and not to be proved. For the sayd Adam Wattes after that he had performed the condicion of the said obligacion feryng the obligacion to be owt of his handes and seyng that I as mayre coud not obtayne the sayd obligacion of hym by no maner of good meanes, commensed an Accion in the crowne court of wynchester agayne the sayd Thomas Johns for the withholdyng of the sayd obligacion and wheras the seriant⁶ coude not personally fynde the seyd Thomas Johnes he attached certen of his clothes and vnder that maner put the sayd Accion in execucion and otherwise his clothes was nevyr arested nor restrayned by me nor by the court and that I wilbe reportid by the mayr for this tyme beyng and his bretherne wiche I besech your lordshipp that I may bryng by fore your grace for my declaracion vppon thes forsaid particulers and also to enforme your grace of the trobulles maners and condicions of the forsaid Thomas Johns not only ageyn me at this tyme but ageyn the hole Cyte of Wynchester as the mayr of the Cyte⁷ and his bretherne shortly purpose to sue vnto the Kynges grace for his reformation exepte short remedy of your grace in this behalfe.

⁵⁻⁵ Interlined in a different ink.

⁶ See p. 189, n. 3.

⁷ The mayors of the city in succession to Lychfeld were John Bellingham (1507) and John Butler (1508). As both these names have been mentioned without the customary

designation 'now mayor,' it is probable that this defence belongs to the mayoralty of John Bird (1509). The indorsement of the plaint shows that it dates from the beginning of that year—i.e. during the lifetime of Henry 7.

APPENDIX¹

Adhuc Communia de Termino sancti Michaelis
Anno xxj Regis henrici septimi

Memorandum quod Willelmus Venables venit coram Baronibus huius scaccarrij quinto die Octobris hoc termino in propria persona sua Et sacramentum prestitit corporale, Quod cum in quodam actu in parlamento domini Regis nunc apud Westmonasterium vicesimo quinto die die² Januarii anno regni sui decimonono tento edito inter alia ordinatum stabilitum & inactuatum existat quod nulli magistri gardiani & societates artium siue misterarum aut eorum aliquis nec aliqui gubernatores guylidarum vel fraternitatum assumant super se ad faciendum aliquos actus vel ordinationes nec ad exequendum aliquos actus vel ordinationes per ipsos ante tunc factos in exheredacionem seu diminucionem prerogatiue domini Regis vel aliorum nec contra bonum publicum plebis Nisi eadem³ actus & ordinationes examinentur & approbentur per Cancellarium Thesaurarium Anglie & Capitales Justiciarios vtriusque banci vel tres eorum vel coram ambobus Justiciariis ad assisas in eorum circuitu siue processu in Comitatu ubi huiusmodi actus siue ordinationes fiant sub pena Forisfacture quadraginta librarum tociens quociens ipsi incontrarium inde fecerint prout in actu predicto plenius continetur.⁴ Quidam tamen Ranulphus Austeyn Edmundus Byrde & Robertus Setcole gardiani Artis siue mistere de lez Founders in Ciuitate London commorantes & alii de eadem mistera & societate existentes actum & ordinationem predictam minime ponderantes sextodecimo die Junii Anno regni domini Regis nunc vicesimo apud London videlicet in parochia sancte margarete in Louthbury in Warda de Colmanstrete

¹ MS. R. O., Exch. K. R. Mem. Roll, M. T. 21 Hen. 7, Adhuc Recorda m. ix. (1505). See Butlond & Others v. Austen & Others, p. 263, supra.

² 'Sic' repeated.

³ Sic.

⁴ The Act is 19 Hen. 7, c. 7 (1504), 'De privatis & illicitis statutis non faciendis.'

London se ipsos in magno numero assemblauerunt & congregati fuerunt & tunc ibidem ex eorum vnanimi assensu quandam pretensam ordinacionem & statutum facerunt & decreuerunt in forma sequente Videlicet quod nulla persona de arte mistera & societate predicta existens vendat aut vendi faciat alicui persone aliquam magnam lampadem de laton¹ infra precium octo denariorum ad minus aliquem discum de laton vocatum a mydle Chafyngdissh pro minore precio quam xiiij d. nec aliquem discum de laton vocatum a smalchafyngdissh infra precium xij d. sub pena perdendi & soluendi Gardianis & societati Artis predictae xl d. tocians quociens ipsi seu eorum aliquis in contrarium fecerint in exheredacionem domini Regis & diminucionem communis legis huius regni Anglie et contra bonum publicum populi sui quicquidem pretensa ordinacio siue statutum per dictos Gardianos & societatem in forma predicta facta per Dominos Cancellarium & Thesaurarium Anglie aut dictos Capitales Justiciarios seu Justiciarios ad Assisas seu eorum aliquem nunquam examinata aut approbata fuerunt contra formam actus & ordinacionis predictorum in parlamento predicto editorum. Vnde predictus Willelmus venables petit auisamentum Curie in premissis.² Super quo concordatum est quod predicti Ranulphus Austeyn Edmundus Birde & Robertus Setcole veniant hic ad respondendum domino Regi in premissis Et preceptum sit vicecomitibus london quod ipsos Ranulphum Edmundum & Robertum venire faciant in forma predicta. Ita &c a die sancti michaelis hoc termino in xv dies.³ Ad quem vicecomites non retornarunt breve. Tamen ad eundem diem predicti Ranulphus Austeyn Edmundus Birde & Robertus Setcole venerunt hic per Johannem Webbys eorum Attornatum. Et petunt auditum informacionis predictae & eis legitur &c qua lecta & audita petunt ex gracia Curie diem eis dari extra quem &c quod eis per Curiam hic concessum est. Et super hoc datus est dies hic prefatis Ranulpho Austeyn Edmundo Birde & Roberto Setcole eodem statu quo nunc vsque diem lune vicesimo die Octobris hoc termino. Ad quem diem predicti Ranulphus Edmundus & Robertus Setcole venerunt hic per dictum eorum Attornatum & protestando⁴ quod materia in informacione predicta specificata minus sufficiens est in lege Ad quam ipsi necesse non habent nec per legem terre tenentur respondere Pro placito dicunt quod dictus dominus Rex nunc ipsos

¹ Laton, latten, &c., 'a mixed metal of yellow colour, either identical with or closely resembling brass.' J. A. H. Murray, 'Engl. Dict.' s.v. Latten.

² In the margin is 'Veneris,' i.e. (die) Veneris, Friday. Note that October 5 21 Hen. 7 was on a Sunday, if October 20

was, as we are expressly told below, on a Monday; but this last date is probably a blunder. The tables in J. J. Bond, 'Handy-Book of Dates' (ed. 1889), p. 58, shew that in 21 Hen. 7 (1505) October 5 was a Monday, and October 20 Tuesday.

³ October 13.

⁴ See p. 103, n. 1.

seu eorum aliquem ratione premissorum in informacione predicta specificatorum vltcrius impetere non debet. Quia dicunt quod ipsi nec aliqui alii de mistera & societate predictis existentes dicto xvj^{mo} die Junii dicto anno vicesimo in informacione predicta specificato nec aliquo tempore postea seu antea seipsos assemblauerunt nec congregati fuerunt nec ordinacionem predictam nec aliquam aliam ordinacionem siue statutum fecerunt seu decreuerunt contra formam ordinacionis predictae in parlamento predicto edite aut aliter modo & forma prout per informacionem predictam superius supponitur quamquidem materiam predicti Ranulphus Austeyn Edmundus Birde & Robertus Setcole parati sunt verificare prout Curia &c vnde petunt iudicium Et quod ipsi quoad premissa ab hac Curia dimittantur &c. Et Jacobus Hobart miles attornatus domini Regis presens hic in Curia in propria persona sua petit pro dicto domino Rege quod predicti Ranulphus Austeyn Edmundus Byrde & Robertus Setcole inueniant sufficientem securitatem ad satisfaciendum domino Regi de omni eo quod eidem domino Regi ratione informacionis predictae adiudicari contigerint. Et dictum est prefatis Ranulpho Edmundo & Roberto Setcole quod huiusmodi securitatem inueniant &c. Et super hoc predicti Ranulphus Austeyn Edmundus Birde & Robertus Setcole presentes hic in Curia in propriis personis suis dicto vicesimo die Octobris hoc termino recognouerunt se debere domino Regi Centum marcas sterlingorum¹ soluendas eidem domino Regi in festo Natalis domini proxime futuro. Sub condicione videlicet quod si predicti Ranulphus Edmundus & Robertus Setcole satisfecerint eidem domino Regi de omni eo quod eidem domino Regi ratione informacionis predictae adiudicari contigerit Ac si iidem Ranulphus Edmundus & Robertus Setcole finem placiti inter dictum Regem & ipsos Ranulphum Edmundum & Robertum in premissis pretensi prosequantur cum effectum quod tunc predicta Recognicio pro nullo habeatur alioquin in suo robore permaneat & effectum. Et predictus Jacobus Hobart miles² qui pro dicto domino Rege sequitur pro eodem domino Rege dicit quod predicti Ranulphus Edmundus & Robertus Setcole & alii de mistera & societate predicta existentes dicto xvj^{mo} die Junii dicto Anno xx^{mo} in informacione predicta specificato seipsos assemblauerunt &c & predictam pretensam ordinacionem siue statutum fecerunt & decreuerunt modo & forma prout per informacionem predictam supponitur. Et hoc idem Jacobus petit pro eodem domino Rege quod inquiratur per patriam &c. Et predicti Ranulphus Edmundus & Robertus Setcole dicunt vt prius &c. Et petunt similiter. Ideo fiat inde inquisicio. Et preceptum sit

¹ 75l.² See p. 18, n. 3.

vicecomitibus London quod non omittent¹ &c et venire faciant hic in Crastino Animarum xvij^{to} tam milites &c de visneto Warde predictae quorum quilibet &c per quos &c et qui nec &c ad recognicionem² in premissis. Et idem dies datus est hic prefatis Ranulpho Edmundo & Roberto Setcole. Ad quem diem predicti Ranulphus Edmundo & Robertus Setcole venerunt hic per dictum eorum Attornatum Et Vicecomites videlicet Ricardus Shore & Radulphus Grove retornarunt hic breve vncum panello de nominibus iuratorum. Et Jurati non venerunt.³ Ideo preceptum sit Vicecomitibus quod ipsos Juratos distringant per terras &c Ita &c in Octabis sancti hillarii vel interim coram dilecto & fideli Regis Willelmo Hody milite Capitali Barone huius Scaccarii apud sanctum Martinum magnum London die Veneris xxvij^o die Nouembris proxime futuro si prius &c Et dictum est prefatis Ranulpho Austeyn Edmundo Byrde & Roberto Setcole quod expectent diem suum coram prefato Capitali Barone ad dictos diem et locum. Et quod sint hic ad dictum Octabis sancti hillarii ad audiendum Iudicium suum si &c Ad quem diem predicti Ranulphus Austeyn Edmundo Byrde & Robertus Setcole venerunt hic per dictum eorum attornatum Et predictus Capitalis Baro coram quo &c non misit hic tenorem Recordi predicti nec vicecomites retornauerunt hic breve nec Juratores venerunt Ideo preceptum sit vicecomitibus quod ipsos Juratores distringant vt prius &c Ita &c a die pasche in xv dies vel interim coram dilecto & fideli Regis Willelmo hody milite Capitali Barone de dicto Scaccario apud sanctum martinum magnum london die Jouis xij^o die Februarii proxime futuro si prius &c Et dictum est prefato Ranulpho Austeyn Edmundo Byrde & Roberto Setcole quod expectent diem suum coram prefato Capitali Barone ad diem & locum predictos Et quod sint hic ad dictam xv pasche ad audiendum iudicium suum si &c. Ad quem diem predictus Capitalis Baro coram quo &c retornauit hic⁴ tenorem recordi predicti indorsatum sic Scilicet Postea die & loco infracontentis coram infranominato Capitali Barone associato sibi Ricardo Palmer per formam statuti⁵ &c venerunt infranominati Ranulphus Austeyn Edmundo Birde & Robertus Setcole in propriis personis suis Et vicecomites london retornauerunt breue de distringas Juratores coram eodem Capitali Barone et iidem Jurati exacti comparuerunt prout patet per panellum &c. Super quo facta

¹ Sic.

² MS. 'recog.'

³ For the rationale of these and the following proceedings see Blackstone, 'Comm.' (ed. 1768), iii. 353, foll.

⁴ I.e. into the Court of Exchequer.

⁵ In accordance with 12 Ed. 2, c. 4

(1318), 'Et ausi une Justice del un Bank ou de lautre, associe a lui un prudhome du pays, Chevalier ou autre, a la requeste du plaintife, preigne les enquestes des pledz,' &c. Cf. also 2 Ed. 3, c. 16 (Statute of Northampton, 1328).

proclamacione pro domino Rege prout moris est si quis predictum Capitalem Baronem aut Juratores predictos de infracontentis pro domino Rege informare aut ipsos Juratores pro eodem domino Rege calumpniare vellet veniret & audiretur. Et Jacobus hobart miles Attornatus domini Regis ad hoc faciendum comparuit. Super quo processum est ad capcionem Juratorum predictorum per sacramentum xij Juratorum modo comparencium Qui ad veritatem de infracontentis dicendam electi triati & iurati dicunt super sacramentum suum quod predicti Ranulphus Edmundus & Robertus Setcole gardiani de lez Founders & alii de eadem mistera & societate existentes dicto xvj^o die Junii dicto Anno xx^o in informacione predicta specificato seipsos assemblauerunt &c & infrascriptam pretensam ordinacionem & statutum fecerunt et decreuerunt¹ modo & forma prout per informacionem infrascriptam supponitur contra formam infraspecificati statuti in huiusmodi casu editi & prouisi Ideo &c Et super hoc predictus Jacobus hobart petit iudicium pro domino Rege in premissis Et visis premissis per² Barones Consideratum est quod predicti Ranulphus Austeyn Edmundus Birde & Robertus Setcole de xl libris domino Regi onerentur iuxta formam statuti supradicti & pretextu aliorum premissorum.³

¹ Marginal note, *Judicium pro Rege.*

² Marginal note, *Recuperacio in Regis xxj^{mo}, i.e. 1505.*

³ A like proceeding was taken against

the Cowpers' Company of London in 1506.

See MS. R. O., Exch. K. R. Mem. Roll, E. T. 21 Hen. 7, Inter Communia m. ix.

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Subscriptions should be paid, and Applications for Forms of Membership or Banker's Orders and communications as to the issue of the publications should be made to the Honorary Treasurer, Mr. FRANCIS K. MUNTON, Montpelier House, Twickenham, or, in the United States of America, to the Local Honorary Secretary and Treasurer, Mr. RICHARD W. HALE, 10 Tremont Street, Boston, Massachusetts.

August 1903.

Selden Society.

FOUNDED 1887.

RULES.

1. The Society shall be called the Selden Society.
2. The object of the Society shall be to encourage the study and advance the knowledge of the history of English Law, especially by the publication of original documents and the reprinting or editing of works of sufficient rarity or importance.
3. Membership of the Society shall be constituted by payment of the annual subscription, or, in the case of life members, of the composition. Form of application is given at the foot.
4. The annual subscription shall be £1. 1s., payable in advance on or before the 1st of January in every year. A composition of £21 shall constitute life membership from the date of the composition, and, in the case of Libraries Societies and corporate bodies, membership for 30 years.
5. The management of the affairs and funds of the Society shall be vested in a President, two Vice-Presidents, and a Council consisting of fifteen members, in addition to the *ex officio* members. The President, the two Vice-Presidents, the Literary Director, the Secretary, and the Hon. Treasurer shall be *ex officio* members. Three shall form a quorum.
6. The President, Vice-Presidents, and Members of the Council shall be elected for three years. At every Annual General Meeting such one of the President and Vice-Presidents as has, and such five members of the Council as have served longest without re-election, shall retire.
7. The five vacancies in the Council shall be filled up at the Annual General Meeting in the following manner: (a) Any two Members of the Society may nominate for election any other member by a writing signed by them and the nominated member, and sent to the Hon. Secretary on or before the 14th of February. (b) Not less than fourteen days before the Annual General Meeting the Council shall nominate for election five members of the Society. (c) No person shall be eligible for election on the Council unless nominated under this Rule. (d) Any candidate may withdraw. (e) The names of the persons nominated shall

be printed in the notice convening the Annual General Meeting. (f) If the persons nominated, and whose nomination shall not have been withdrawn are not more than five, they shall at the Annual General Meeting be declared to have been elected. (g) If the persons nominated, and whose nomination shall not have been withdrawn, shall be more than five, an election shall take place by ballot as follows : every member of the Society present at the Meeting shall be entitled to vote by writing the names of not more than five of the candidates on a piece of paper and delivering it to the Hon. Secretary or his Deputy, at such meeting, and the five candidates who shall have a majority of votes shall be declared elected. In case of equality the Chairman of the Meeting shall have a second or casting vote. The vacancy in the office of President or Vice-President shall be filled in the same manner (*mutatis mutandis*).

8. The Council may fill casual vacancies in the Council or in the offices of President and Vice-President. Persons so appointed shall hold office so long as those in whose place they shall be appointed would have held office. The Council shall also have power to appoint Honorary Members of the Society.

9. The Council shall meet at least twice a year, and not less than seven days' notice of any meeting shall be sent by post to every member of the Council.

10. There shall be a Literary Director to be appointed and removable by the Council. The Council may make any arrangement for remunerating the Literary Director which they may think reasonable.

11. It shall be the duty of the Literary Director (but always subject to the control of the Council) to supervise the editing of the publications of the Society, to suggest suitable editors, and generally to advise the Council with respect to carrying the objects of the Society into effect.

12. Each member shall be entitled to one copy of every work published by the Society as for any year of his membership. No person other than an Honorary Member shall receive any such work until his subscription for the year as for which the same shall be published shall have been paid. Provided that Public Libraries and other Institutions approved by the Council may, on agreeing to become regular subscribers, be supplied with the past publications at such reduced subscription as the Council may from time to time determine.

13. The Council shall appoint an Hon. Secretary and also an Hon. Treasurer and such other Officers as they from time to time think fit, and shall from time to time define their respective duties.

14. The funds of the Society, including the vouchers or securities for any investments, shall be kept at a Bank, to be selected by the Council, to an account in the name of the Society. Such funds or investments shall only be dealt with by a cheque or other authority signed by the Treasurer and

countersigned by one of the Vice-Presidents or such other person as the Council may from time to time appoint.

15. The accounts of the receipts and expenditure of the Society up to the 31st of December in each year shall be audited once a year by two Auditors, to be appointed by the Society, and the report of the Auditors, with an abstract of the accounts, shall be circulated together with the notice convening the Annual Meeting.

16. An Annual General Meeting of the Society shall be held in March 1896, and thereafter in the month of March in each year. The Council may upon their own resolution and shall on the request in writing of not less than ten members call a Special General Meeting. Seven days' notice at least, specifying the object of the meeting and the time and place at which it is to be held, shall be posted to every member resident in the United Kingdom at his last known address. No member shall vote at any General Meeting whose subscription is in arrear.

17. The Hon. Secretary shall keep a Minute Book wherein shall be entered a record of the transactions, as well at Meetings of the Council as at General Meetings of the Society.

18. These rules may upon proper notice be repealed, added to, or modified from time to time at any meeting of the Society. But such repeal, addition, or modification, if not unanimously agreed to, shall require the vote of not less than two-thirds of the members present and voting at such meeting.

July 1901.

FORM OF APPLICATION FOR MEMBERSHIP.

To Mr. FRANCIS K. MUNTON, Montpelier House, Twickenham,

Honorary Treasurer of the Selden Society.

I desire to become a member of the Society, and herewith send my cheque for One Guinea, the annual subscription [*or £21 the life contribution*] dating from the commencement of the present year. [I also desire to subscribe for the preceding years _____, and I add one guinea for each to my cheque.]

Name.....

Address.....

Description.....

Date.....

[NOTE.—Cheques, crossed “ROBARTS & Co., a/c of the Selden Society,” should be made payable to the Honorary Treasurer, from whom forms of bankers' orders for payment of subscriptions direct to the Society's banking account can be obtained.]

Selden Society.

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1901.

(* denotes Life Members; † Members of the Council.)

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